



**PRESENT:**

Mr. Jack R. Wilson, III, Chairman  
Mr. Daniel A. Gecker, Vice-Chairman  
Mr. Russell J. Gulley  
Mr. Sherman W. Litton  
Mr. Kirkland A. Turner, Secretary to the Commission,  
Planning Director

**ABSENT:**

Mr. F. Wayne Bass

**ALSO PRESENT:**

Mr. Glenn E. Larson, Assistant Director, Plans and Information  
Branch, Planning Department  
Mr. Michael E. Tompkins, Assistant Director/Zoning Administrator,  
Development Review, Planning Department  
Ms. Beverly F. Rogers, Assistant Director, Zoning and  
Special Projects, Planning Department  
Mr. Robert V. Clay, Principal Planner, Zoning and  
Special Projects, Planning Department  
Ms. Jane Peterson, Principal Planner, Zoning and  
Special Projects, Planning Department  
Ms. Darla W. Orr, Principal Planner, Zoning and  
Special Projects, Planning Department  
Ms. Teresa C. Davis, Administrative Secretary, Zoning and  
Special Projects, Planning Department  
Mr. Carl D. Schlautdt, Planning Administrator,  
Development Review, Planning Department  
Mr. Jack Follis, Jr., Planner, Development  
Review, Planning Department  
Mr. Gregory E. Allen, Planning Administrator,  
Development Review, Planning Department

Mr. Jeffrey H. Lamson, Senior Planner, Development  
Review, Planning Department  
Mr. Joseph E. Feest, Planning Administrator, Development  
Review, Planning Department  
Ms. Barbara Fassett, Planning Administrator, Advance Planning  
and Research Branch, Planning Department  
Mr. James K. Bowling, Principal Planner, Advance Planning  
and Research Branch, Planning Department  
Mr. Steven F. Haasch, Senior Planner, Advance Planning and  
Research Branch, Planning Department  
Ms. Linda N. Lewis, Administrative Assistant, Administrative  
Branch, Planning Department  
Ms. Deanna D. Atkins, Administrative Secretary,  
Administrative Branch, Planning Department  
Ms. Lisa Caudill, Secretary, Administrative Branch,  
Planning Department  
Mr. David W. Robinson, Assistant County Attorney,  
County Attorney's Office  
Mr. Allan M. Carmody, Budget Manager,  
Budget and Management Department  
Mr. R. John McCracken, Director,  
Transportation Department  
Mr. James R. Banks, Assistant Director,  
Transportation Department  
Ms. Barbara Smith, Senior Civil Engineer,  
Transportation Department  
Mr. Richard M. McElfish, Director,  
Environmental Engineering Department  
Mr. Douglas Pritchard, Jr., Engineering Supervisor,  
Environmental Engineering Department  
Mr. Randolph Phelps, Senior Engineer,  
Utilities Department  
Deputy Chief R. Michael Hatton, Support Services,  
Fire Department  
Fire Marshal J. Robert Dawson, Fire & Life Safety  
Division, Fire Department  
Ms. Cynthia O. Richardson, Director of Planning,  
School Administration

### **WORK SESSION**

At approximately 12:00 p. m., Messrs. Wilson, Gecker, Gulley, Litton and staff met in Room 502 of the Chesterfield County Administration Building for lunch and a work session to discuss the following:

**A. Requests to Postpone Action, Emergency Additions or Changes in the Order of Presentation.**

- B. **Review Upcoming Agendas.**  
(NOTE: At this time, any rezonings or conditional uses scheduled for future meetings will be discussed.)
- C. **Review Day's Agenda.**  
(NOTE: At this time, any items listed for the 3:00 p. m. and 7:00 p. m. Sessions will be discussed.)
- D. **Plans and Information Section Update.**
- E. **Work Program – Review and Update.**
- F. **Northern Courthouse Road Plan Amendment.**
- G. **Proposed Code Amendment Relative to Multifamily and Townhouse Units in C-3, C-4 and C-5 Districts.**
- H. **Metropolitan Planning Organization Regional Transportation Plan.**
- I. **Adjournment.**

**A. REQUESTS TO POSTPONE ACTION, EMERGENCY ADDITIONS OR CHANGES IN THE ORDER OF PRESENTATION.**

Mr. Turner stated Mr. Bass had requested that an item relative to the establishment of locational criteria for age-restricted housing be added to the agenda.

On motion of Mr. Gulley, seconded by Mr. Gecker, the Commission amended the agenda to add a new Item I., Discussion Regarding Establishment of Locational Criteria for Age-Restricted Housing and reordered the agenda accordingly.

AYES: Messrs. Wilson, Gecker and Gulley.  
ABSENT: Mr. Litton and Bass.

On motion of Mr. Gecker, seconded by Mr. Gulley, the Commission amended the agenda to add new Items VI. and XIII., Citizens Input on Unscheduled Matters, to the 7:00 p. m. Evening Session and reordered the agenda accordingly.

AYES: Messrs. Wilson, Gecker and Gulley.  
ABSENT: Mr. Litton and Bass.

**B. REVIEW UPCOMING AGENDAS.**

Ms. Rogers presented an overview of the Commission's upcoming case schedules for the March 21, April 18 and May 16, 2006 Planning Commission meetings.

**C. REVIEW DAY'S AGENDA.**

Mr. Tompkins presented an overview of, and staff's recommendations for, requests to be considered at the 3:00 p. m. Afternoon Session.

Ms. Rogers presented an overview of, and staff's recommendations for, requests to be considered at the 7:00 p. m. Evening Session.

Mr. Turner noted the Commission was also scheduled to consider two (2) proposed Code Amendments at the Evening Session, one of which related to multifamily and townhouse uses in C-3, C-4 and C-5 Districts and the other to permitted uses by-right in the MH-2 Zoning District.

**D. PLANS AND INFORMATION SECTION UPDATE.**

There were no updates for the Plans and Information Section.

**E. WORK PROGRAM.**

Mr. Turner noted the Planning Commission's By-Laws Committee was scheduled to meet on March 7, 2006, at 5:00 p. m. at the Midlothian Library Meeting Room.

There being no additions, deletions or revisions to the Commission's Work Program, it was the consensus of the Commission to adopt their March 2006 Work Program, as presented by Mr. Turner.

**F. NORTHERN COURTHOUSE ROAD PLAN AMENDMENT.**

Several Commissioners indicated additional revisions to the proposed Northern Courthouse Road Plan Amendment may be forthcoming and suggested the proposed Plan be deferred.

It was the consensus of the Commission to defer the proposed Northern Courthouse Road Plan Amendment to the March 21, 2006, Planning Commission Work Session.

**G. PROPOSED CODE AMENDMENT RELATIVE TO MULTIFAMILY AND TOWNHOUSE UNITS IN C-3, C-4 AND C-5 DISTRICTS.**

Mr. Schlaudt presented an overview of the proposed Code Amendment and staff's recommendation; noted the proposal had been re-advertised/re-noticed for public hearing to ensure appropriate and timely notification to affected parties; and that staff had conducted additional background analysis on the proposed amendment and had mapped properties affected by the amendment, which he outlined.

**H. METROPOLITAN PLANNING ORGANIZATION REGIONAL TRANSPORTATION PLAN.**

Ms. Barbara Smith of the County Transportation Department distributed copies of and updated the Commission as to the status of various elements of the Metropolitan Planning Organization's Regional Transportation Plan.

In response to the Commissioner's requests, Ms. Smith stated she would provide current as well as future information and maps related to the Plan.

**I. DISCUSSION REGARDING ESTABLISHMENT OF LOCATIONAL CRITERIA FOR AGE-RESTRICTED HOUSING.**

There was a philosophical discussion among the Commission relative to the establishment of locational criteria for age-restricted housing and related concerns.

Upon conclusion of the discussion, the Commission requested staff research the topic and bring forward the information at a future date for further discussion.

**J. ADJOURNMENT.**

There being no further business to come before the Commission, it was on motion of Mr. Gulley, seconded by Mr. Gecker, that the Commission adjourned at approximately 1:49 p. m., with the Commission agreeing to reconvene in the Public Meeting Room at 3:00 p. m. for the Afternoon Session.

AYES: Messrs. Wilson, Gecker, Gulley and Litton.

ABSENT: Mr. Bass.

**3:00 P. M. AFTERNOON SESSION**

Mr. Wilson, Chairman, called the Afternoon Session to order at approximately 3:00 p. m. in the Public Meeting Room of the Chesterfield County Administration Building.

**A. REQUESTS TO POSTPONE ACTION, EMERGENCY ADDITIONS OR CHANGES IN THE ORDER OF PRESENTATION.**

There were no requests to postpone action, emergency additions or changes in the order of presentation.

**B. APPROVAL OF PLANNING COMMISSION MINUTES-JANUARY 17, 2006.**

Mr. Turner stated that the first order of business would be the consideration of the January 17, 2006, Planning Commission minutes.

On motion of Mr. Gecker, seconded by Mr. Gulley, the Commission resolved to approve the January 17, 2006, Planning Commission minutes, with the following correction:

**Page 2, paragraph 19:**

"At approximately 12:00 p. m., Messrs. Litton, Wilson, **Gulley**, Bass, Gecker and staff met in Room 502 of the Chesterfield County Administration Building for lunch and a work session to discuss the following:"

AYES: Messrs. Wilson, Gecker, Gulley and Litton.

ABSENT: Mr. Bass.

**C. CONSIDERATION OF THE FOLLOWING REQUESTS:**

**♦ DEFERRAL REQUEST BY APPLICANT.**

**05TS0196:**\* In Midlothian Magisterial District, **DARREL NEILSON** requested deferral to April 18, 2006, for consideration of approval of a tentative subdivision plat. This development is commonly known as **THE BATTERY AT OLD GUN**. This request lies in a Residential (R-40) District on a 20.12 acre parcel fronting

approximately 300 feet on the west line of Old Gun Road, approximately twenty (20) feet south of Spring Creek Drive and approximately 4,000 feet north of Robious Road. Tax ID 735-721-2025 (Sheet 2).

Mr. Andy Scherzer; the applicant's representative, requested deferral to April 18, 2006.

Mr. Wilson opened the discussion for public comment relative to the deferral.

Dr. Mike Harton and Ms. Nancy Frantel, County residents, supported the deferral, noting that issues of concern relative to abandoned, underground mines and the potential collapse of front loaded garages and floors of homes constructed on unstable property had not been resolved. Dr. Harton distributed information regarding mine subsidence websites and photographs depicting underground mine subsidence.

There being no one else to speak, Mr. Wilson closed the public comment.

Mr. Gecker indicated he was reluctant to proceed with the request until such time as the issue relative to the connection of a stub road to Tarrington Subdivision was resolved and the location determined and safety ascertained of area mines before this development was approved.

The following motion was made at the applicant's request.

On motion of Mr. Gecker, seconded by Mr. Gulley, the Commission resolved to defer Case 05TS0196, Darrel Neilson (The Battery at Old Gun), to the April 18, 2006, Planning Commission meeting.

AYES: Messrs. Wilson, Gecker, Gulley and Litton.

ABSENT: Mr. Bass.

◆ **DEFERRAL REQUEST BY STAFF.**

**06PR0226:** In Clover Hill Magisterial District, **DUKE MANAGEMENT SERVICES, INC.** requested deferral to April 18, 2006, for consideration of Planning Commission approval of a seventy-five (75) foot reduction to a 100 foot buffer requirement, in conjunction with site plan approval. This project is commonly known as **BAILEY'S BRIDGE STORAGE**. This request lies in a General Business (C-5) District on a 4.18 acre parcel fronting approximately 375 feet on the east line of Clintwood Road approximately 300 feet north of its intersection with Hull Street Road. Tax ID 741-683-0425 (Sheet 10).

Mr. Stuart Grattan, the applicant's representative, stated, after discussing the request with staff earlier in the day, he was now requesting deferral to April 18, 2006.

Mr. Wilson opened the discussion for public comment relative to the deferral.

Mr. Timothy Jones, an adjacent property owner, stated he was opposed to the buffer reduction and expressed concerns relative to the increased traffic and potential accidents that would be generated by the proposed development.

There being no one else to speak, Mr. Wilson closed the public comment.

Mr. Gulley indicated he was not aware of opposition to the request and stated he felt deferral to April 18, 2006, would be appropriate so he could meet with Mr. Jones to address his concerns.

Mr. Grattan stated deferral to the April meeting was acceptable.

The following motion was made at the applicant's request.

On motion of Mr. Gulley, seconded by Mr. Litton, the Commission resolved to defer Case 06PR0226, Duke Management Services, Inc. (Bailey's Bridge Storage), to the April 18, 2006, Planning Commission meeting.

AYES: Messrs. Wilson, Gecker, Gulley and Litton.  
ABSENT: Mr. Bass.

◆ **DEFERRAL REQUEST BY INDIVIDUAL PLANNING COMMISSIONER.**

**06PW0280:** In Clover Hill Magisterial District, **WILLIAM P. SOWERS** requested modification of Zoning Ordinance Section 19-585 (a) Route 360 Corridor East: Rural Transition. Specifically, the applicant requests relief from the requirement that no visible flat or shed roofs shall be permitted. This project is commonly known as **POCOSHOCK COMMONS**. This request lies in a Light Industrial (I-1) District on a 2.6 acre parcel fronting approximately 250 feet on the south line of Pocoshock Way, also fronting approximately 485 feet on the east line of Pocoshock Boulevard. Tax ID 763-694-2644 (Sheet 11).

Mr. Allen noted deferral of Case 06PW0280, William P. Sowers (Pocoshock Commons) was necessitated by an advertising error regarding the section of the Zoning Ordinance being addressed by the waiver request and the applicant had been advised that it was not necessary to attend the meeting.

No one came forward to represent the request.

No one came forward to speak in favor of, or in opposition to, the deferral.

The following motion was made at Mr. Gulley's request.

On motion of Mr. Gulley, seconded by Mr. Litton, the Commission, on their own motion, resolved to defer Case 06PW0280, William P. Sowers (Pocoshock Commons), to the March 21, 2006, Planning Commission meeting.

AYES: Messrs. Wilson, Gecker, Gulley and Litton.  
ABSENT: Mr. Bass.

◆ **CASES WHERE THE APPLICANT ACCEPTS STAFF'S RECOMMENDATION AND THERE WAS NO OPPOSITION PRESENT.**

**06PS0264:** In Midlothian Magisterial District, **MARCHETTI PROPERTIES** requested to amend the architectural treatment of buildings, as identified in Condition 3 of Case 96PS0169. This development is commonly known as **STONEHENGE VILLAGE**. This request lies in Corporate Office (O-2) and Community Business (C-3) Districts on three (3) parcels fronting approximately 885 feet on the south line of

Midlothian Turnpike, also fronting approximately 1,400 feet on the north line of Farnham Drive. Tax IDs 735-707-6669 and 9536 and 736-707-8355 (Sheet 6).

Mr. Gecker stated he wished to defer the request so concerns relative to whether or not the applicant intended to amend the zoning for the project could be ascertained and if the applicant did intend to amend the zoning, the condition of architecture could be addressed at the time of zoning, not at schematic review.

Mr. Bobby Marchetti, the applicant, stated he did not understand the necessity for deferring the request.

Mr. Wilson opened the discussion for public comment regarding the deferral.

Ms. Amy Satterfield, Executive Director of the Village of Midlothian Volunteer Coalition, supported deferral of the request to allow an opportunity to address/resolve the issues of concern.

There being no one else to speak, Mr. Wilson closed the public comment.

The following motion was made at Mr. Gecker's request.

On motion of Mr. Gecker, seconded by Mr. Gulley, the Commission, on their own motion, resolved to defer Case 06PS0264, Marchetti Properties (Stonehenge Village), to the March 21, 2006, Planning Commission meeting.

AYES: Messrs. Wilson, Gecker, Gulley and Litton.

ABSENT: Mr. Bass.

**06PW0265:** In Bermuda Magisterial District, **THE PHOENIX, L.P.** requested waivers to two (2) development standards: (1) screening of loading areas from a public right of way; and (2) architectural material visible to the public right of way shall not be inferior in quality, appearance or detail to other exteriors of the same building. This project is commonly known as **PHOENIX CENTER**. This request lies in a General Industrial (I-2) District on a 9.8 acre parcel fronting approximately 610 feet on the south line of W. Hundred Road west of Rivers Bend Road and better known as 701 W. Hundred Road. Tax ID 810-652-2734 (Sheet 27).

Mr. Brian Crutchfield, the applicant's representative, accepted staff's recommendation.

On motion of Mr. Wilson, seconded by Mr. Litton, the Commission found Case 06PW0265, The Phoenix, L.P. (Phoenix Center), substantially complied with the five (5) factors of Section 19-19 of the County Code and resolved to recommend approval of a development standards waiver to Section 19-572 of the Zoning Ordinance requiring screening of loading areas from a public right of way; Section and 19-595 of the Zoning Ordinance requiring architectural material visible to the public right of way shall not be inferior in quality, appearance or detail to other exteriors of the same building, subject to the following conditions:

#### CONDITIONS

1. Evergreen trees of a species approved by the Planning Department shall be planted eight (8) to ten (10) feet on center in a hedgerow based upon species selected with a minimum installation height of eight (8) feet, starting at the northeast corner of the site and



continuing south for 160 feet, whereupon the height of the installed trees can drop to a minimum height of four (4) feet to the end of the building at its southeast corner. It is the full responsibility of the property owner to maintain the quality of the hedgerow or install a screening wall as required by the Zoning Ordinance. (P)

2. The evergreen tree hedgerow shall be irrigated using an installed automatic irrigation system. (P)

AYES: Messrs. Wilson, Gecker, Gulley and Litton.  
ABSENT: Mr. Bass.

**D. FIELD TRIP AND DINNER.**

♦ **FIELD TRIP SITE SELECTION.**

The Commission agreed to forego their Field Trip to visit request sites.

♦ **DINNER LOCATION.**

On motion of Mr. Litton, seconded by Mr. Wilson, the Commission resolved to meet for dinner at Uno Pizzeria Chicago Bar and Grill on Jefferson Davis Highway in Chester, VA.

AYES: Messrs. Wilson, Gecker, Gulley and Litton.  
ABSENT: Mr. Bass.

**E. ADJOURNMENT.**

There being no further business to come before the Commission, it was on motion of Mr. Litton, seconded by Mr. Wilson, that the Commission adjourned the Afternoon Session at approximately 3:26 p. m., agreeing to meet at Uno Pizzeria Chicago Bar and Grill in Chester, VA, at 5:00 p. m. for dinner.

AYES: Messrs. Wilson, Gecker, Gulley and Litton.  
ABSENT: Mr. Bass.

During dinner, there was discussion pertaining to various rezoning and Conditional Use request sites.

**7:00 P. M. EVENING SESSION**

At approximately 7:00 p. m., Mr. Wilson, Chairman, called the Evening Session to order.

**A. INVOCATION.**

Mr. Gulley presented the invocation.

**B. PLEDGE OF ALLEGIANCE TO THE FLAG OF THE UNITED STATES OF AMERICA.**

Mr. Clay led the Pledge of Allegiance to the Flag.

Mr. Wilson stated, at this time, the Commission wished to present a resolution of recognition to Mr. Sherman Litton for his service as Chairman of the Planning Commission for 2005.

**C. RESOLUTION RECOGNIZING MR. SHERMAN W. LITTON AS 2005 PLANNING COMMISSION CHAIRMAN.**

On motion of Mr. Gulley, seconded by Mr. Gecker, the Commission adopted the following resolution:

*WHEREAS, Mr. Sherman W. Litton*, Planning Commissioner representing the Dale Magisterial District, served as *Chairman of the Chesterfield County Planning Commission in 2005*; and

*WHEREAS, Mr. Litton*, having served as Chairman to the Chesterfield County Planning Commission, has given freely of his time and commitment; and

*WHEREAS, Mr. Litton* has been actively involved in amendments to The Plan for Chesterfield, to include the Chester Plan, which comprehensively addresses existing and future needs in the Chester community and contains numerous recommendations, including those for historic preservation, the implementation of a pedestrian network and other transportation improvements; and

*WHEREAS, Mr. Litton* guided the Commission in amending The Plan For Chesterfield to promote affordable housing opportunities; and

*WHEREAS, Mr. Litton* guided the Commission in the review and amendment of an updated Public Facilities Plan, which addressed amendment of one middle school location and timing of the replacement for the Clover Hill High School; and

*WHEREAS, Mr. Litton*, through numerous Ordinance and Policy Amendments which have clarified and updated development standards, to include subdivision standards; Chesapeake Bay; incidental check cashing; businesses from the home; notification requirements and industrial setbacks, and;

*WHEREAS*, during his tenure, *Mr. Litton* provided leadership in the approval of various County projects including zoning approval to permit expansion of housing options and services at Lucy Corr Village and guided the Commission through the evaluation of a multitude of zoning, site plan and tentative subdivision proposals.

*NOW, THEREFORE, BE IT RESOLVED*, that the *CHESTERFIELD COUNTY PLANNING COMMISSION*, on this *21ST DAY OF FEBRUARY 2006*, does hereby recognize and applaud the conscientious efforts and commitment to excellence displayed by its 2005 Chairman, *MR. SHERMAN W. LITTON*.

AYES: Messrs. Wilson, Gecker, Gulley and Litton.

ABSENT: Mr. Bass.

Members of the Commission expressed their appreciation to Mr. Litton for his guidance and leadership as Chairman of the Commission and recognized/applauded his conscientious efforts and commitment to excellence in his service to the County.

**D. REVIEW AGENDAS FOR UPCOMING MEETINGS AND MEETING PROCEDURES.**

Mr. Turner apprised the Commission of the agenda caseload for the upcoming months, noting fourteen (14) cases on the March 21, 2006, agenda; sixteen (16) cases on the April 18, 2006, agenda; and ten (10) cases on the May 16, 2006 agenda.

**D. REQUESTS TO POSTPONE ACTION, EMERGENCY ADDITIONS OR CHANGES IN THE ORDER OF PRESENTATION.**

There were no requests to postpone action, emergency additions or changes in the order of presentation.

**E. CITIZENS' INPUT ON UNSCHEDULED MATTERS.**

Ms. Andrea Epps, a County resident, expressed concerns relative to the preservation/maintenance of older existing residential communities and urged the Commission to consider the impact of development on these communities as they evaluated future zoning requests.

**F. CONSIDERATION OF THE FOLLOWING REQUESTS:**  
**♦ REQUESTS FOR DEFERRAL BY APPLICANTS.**

**04SN0274:\*** In Midlothian Magisterial District, **TC MIDATLANTIC DEVELOPMENT INC.** requested deferral to April 18, 2006, for consideration of rezoning and amendment of zoning district map from Agricultural (A) to Community Business (C-3). The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for regional employment center use. This request lies on 37.1 acres fronting approximately 1,000 feet on the north line of Midlothian Turnpike across from Watkins Center Parkway. Tax IDs 714-712-9323; 715-711-0444 and 4043; 715-712-3508; 716-713-Part of 5414; and 717-708-Part of 4353 (Sheet 5).

Mr. John V. Cogbill, III, the applicant's representative, requested deferral to the April 18, 2006, Planning Commission public hearing.

There was no opposition to the deferral.

Mr. Gecker stated the property encompassed by this request was also included in the proactive zoning request (Case 06SN0191) being considered this evening and indicated it was his understanding that if the proactive request were approved, this case would be withdrawn. He stated he hoped approval of the proactive zoning case would mitigate the potential for any minor or major revisions in the geographic area in the future as they pertained to this property.

The following motion was made at the applicant's request.

On motion of Mr. Gecker, seconded by Mr. Gulley, the Commission resolved to defer Case 04SN0274 to the April 18, 2006, Planning Commission public hearing.

AYES: Messrs. Wilson, Gecker, Gulley and Litton.  
ABSENT: Mr. Bass.

**05SN0102:\*** (Amended) In Dale Magisterial District, **FARRISH PROPERTIES, LLC** requested deferral to April 18, 2006, for consideration of rezoning and amendment of zoning district map from Agricultural (A) and Light Industrial (I-1) to Multifamily Residential (R-MF). Residential use of 10.0 units per acre is permitted in a Multifamily Residential (R-MF) District. The Comprehensive Plan suggests the property is appropriate for residential use of 2.5 units per acre or less. This request lies on 27.9 acres fronting approximately 360 feet on the north line of Old Lane approximately 670 feet east of Hopkins Road, fronting approximately 1,800 feet on the west line of the CSX Railroad intersecting with both Route 288 and Old Lane, fronting approximately 575 feet on the south line of Route 288 approximately 540 feet east of Hopkins Road and also fronting approximately 640 feet on the east line of Hopkins Road approximately 470 feet north of Old Lane. Tax IDs 785-666-8528 and 8759; 786-666-3851; and 786-667-3619 (Sheets 18 and 26).

Mr. Dean Hawkins, the applicant's representative, requested deferral to the April 18, 2006, Planning Commission meeting.

There was no opposition to the deferral.

In response to a question from Mr. Litton, Mr. Hawkins stated he was comfortable deferral to the April 18, 2006, meeting was sufficient time to finalize the proposal.

The following motion was made at the applicant's request.

On motion of Mr. Litton, seconded by Mr. Gulley, the Commission resolved to defer Case 05SN0102 to the April 18, 2006, Planning Commission public hearing.

AYES: Messrs. Wilson, Gecker, Gulley and Litton.  
ABSENT: Mr. Bass.

**06SN0119:\*** In Bermuda Magisterial District, **DSRA, LLC** requested deferral to March 21, 2006, for consideration of rezoning and amendment of zoning district map from Agricultural (A) and General Business (C-5) to Community Business (C-3). The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for commercial use. This request lies on 9.0 acres fronting approximately 390 feet on the south line of West Hundred Road, also fronting approximately 900 feet on the west line of Interstate 95 ramp and located in the southwest quadrant of the intersection of these roads. Tax IDs 800-653-4668 and 800-654-2613, 2833, 4223 and 5211 (Sheet 26).

Mr. Dean Hawkins, the applicant's representative, requested deferral to the March 21, 2006, Planning Commission public hearing.

There was no opposition to the deferral.

The following motion was made at the applicant's request.

On motion of Mr. Wilson, seconded by Mr. Litton, the Commission resolved to defer Case 06SN0119 to the March 21, 2006, Planning Commission public hearing.

AYES: Messrs. Wilson, Gecker, Gulley and Litton.  
ABSENT: Mr. Bass.

**06SN0127:\*** In Clover Hill Magisterial District, **J. MARK SOWERS** requested deferral to March 21, 2006, for consideration of rezoning and amendment of zoning district map from Agricultural (A) to Residential (R-12). Residential use of up to 3.63 units per acre is permitted in a Residential (R-12) District. The Comprehensive Plan suggests the property is appropriate for medium density residential use of 1.51 to 4.0 units per acre. This request lies on 22.6 acres lying off the eastern terminus of North Vickilee Road and Vickilee Court, the northern terminus of Vickilee Road and western terminus of Marblethorpe Road. Tax IDs 746-699-8830; and 747-699-0340, 0744, 1248, 1750, 2453 and 4454 (Sheet 6).

Mr. Andy Scherzer, on behalf of the applicant, requested deferral to the March 21, 2006, Planning Commission public hearing.

There was no opposition to the deferral.

Mr. Gulley stated he did not feel the drainage issues could be resolved in thirty (30) days and inquired if the applicant would consider deferring the request to the April 18, 2006, public hearing.

Mr. Scherzer stated, without speaking to Mr. Sowers, he would be unable to request a sixty (60) day deferral.

Mr. Gulley indicated, in addition to the applicant's request for a thirty (30) day deferral, he would add an additional thirty (30) days on the Commission's motion.

The following motion was made at the applicant's and Mr. Gulley's requests.

On motion of Mr. Gulley, seconded by Mr. Litton, the Commission resolved to defer Case 06SN0127 for thirty (30) days at the applicant's request and for thirty (30) days on the Commission's motion, for a total of sixty (60) days to the April 18, 2006, Planning Commission public hearing.

AYES: Messrs. Wilson, Gecker, Gulley and Litton.  
ABSENT: Mr. Bass.

**06SN0161:\*** In Bermuda Magisterial District, **BARTHURST HOMES, INC.** requested deferral to March 21, 2006, for consideration of rezoning and amendment of zoning district map from Agricultural (A) to Residential (R-12). Residential use of up to 3.63 units per acre is permitted in a Residential (R-12) District. The Comprehensive Plan suggests the property is appropriate for residential use of 2.51-4.0 units per acre. This request lies on 7.2 acres fronting approximately 650 feet on the south line of Old Happy Hill Road, also fronting approximately 230 feet on the east line of Branders Bridge Road and located in the southeast quadrant of the intersection of these roads. Tax ID 785-646-8847 (Sheet 34).

Mr. Larry A. Barthurst, the applicant, requested deferral to the March 21, 2006, Planning Commission public hearing.

There was no opposition to the deferral.

Ms. Danette Lindo, a realtor with Long and Foster, stated she did not feel a deferral was necessary because proffered conditions were sent to area residents for review the previous week.

The following motion was made at the applicant's request.

On motion of Mr. Wilson, seconded by Mr. Litton, the Commission resolved to defer Case 06SN0161 to the March 21, 2006, Planning Commission public hearing.

AYES: Messrs. Wilson, Gecker, Gulley and Litton.  
ABSENT: Mr. Bass.

◆ **REQUESTS FOR DEFERRAL BY INDIVIDUAL PLANNING COMMISSIONERS.**

**06SN0121:** In Dale Magisterial District, **DOMINION PROPERTY SERVICES** requested rezoning and amendment of zoning district map from Agricultural (A) to Residential Townhouse (R-TH). Residential use of up to 8.0 units per acre is permitted in a Residential Townhouse (R-TH) District. The Comprehensive Plan suggests the property is appropriate for medium density residential use of 1.51 to 4.0 units per acre. This request lies on 29.9 acres fronting approximately 1,700 feet on the north line of Genito Road approximately 200 feet east of Price Club Boulevard. Tax IDs 747-681-7089; 747-682-7022 and Part of 4858; and 748-681-0499 (Sheet 16).

Mr. John V. Cogbill, III, , the applicant's representative, accepted deferral of the request by Mr. Litton to the April 18, 2006, Planning Commission public hearing.

Mr. Wilson opened the discussion for public comment relative to the deferral.

Ms. Sherry Munford, an adjacent property owner, supported deferral of the request, noting she was unaware of any community meetings being conducted to address residents' concerns.

There being no one else to speak, Mr. Wilson closed the public comment.

Mr. Litton stated there had been two (2) previous community meetings regarding this request; however, he was amenable to deferral to the April 18, 2006, meeting to allow another community meeting to be scheduled to address area residents' concerns.

The following motion was made at Mr. Litton's request.

On motion of Mr. Litton, seconded by Mr. Gulley, the Commission, on their own motion, resolved to defer Case 06SN0121 to the April 18, 2006, Planning Commission public hearing.

AYES: Messrs. Wilson, Gecker, Gulley and Litton.  
ABSENT: Mr. Bass.

**06SN0166:** In Matoaca Magisterial District, **ROBERT SOWERS** requested rezoning and amendment of zoning district map from Agricultural (A) to Residential (R-12) with Conditional Use Planned Development to permit exceptions to Ordinance requirements. Residential use of up to 3.63 units per acre is permitted in

a Residential (R-12) District. The Comprehensive Plan suggests the property is appropriate for single family residential use of 2.0 units per acre or less. This request lies on 51.8 acres fronting approximately 1,050 feet on the south line of DuVal Road approximately 2,870 feet west of Otterdale Road. Tax ID 703-675-1477 (Sheet 14).

Mr. Jim Theobald, the applicant's representative, accepted deferral of the request by Mr. Gulley to the March 21, 2006, Planning Commission public hearing.

There was no opposition to the deferral.

The following motion was made at Mr. Gulley's request.

On motion of Mr. Gulley, seconded by Mr. Litton, the Commission, on their own motion, resolved to defer Case 06SN0166 to the March 21, 2006, Planning Commission public hearing.

AYES: Messrs. Wilson, Gecker, Gulley and Litton.  
ABSENT: Mr. Bass.

**06SN0178:** In Matoaca Magisterial District, **THE REED'S LANDING CORP.** requested rezoning and amendment of zoning district map from Agricultural (A) to Residential (R-15). Residential use of up to 2.90 units per acre is permitted in a Residential (R-15) District. The Comprehensive Plan suggests the property is appropriate for residential use of 1.01 - 2.5 units per acre. This request lies on 205.1 acres fronting approximately 2,870 feet on the north line of Hickory Road at its intersection with Halloway Avenue. Tax IDs 781-618-6468; 782-619-6148; 784-619-4378; and 784-620-1961 (Sheets 41 and 45).

Mr. Gecker left the meeting at approximately 7:30 p. m.

Mr. Oliver D. "Skitch" Rudy, the applicant's representative, accepted deferral of the request by Mr. Gulley to the March 21, 2006, Planning Commission public hearing.

There was no opposition to the deferral.

The following motion was made at the Mr. Gulley's request.

On motion of Mr. Gulley, seconded by Mr. Litton, the Commission, on their own motion, resolved to defer Case 06SN0178 to the March 21, 2006, Planning Commission public hearing

AYES: Messrs. Wilson, Gulley and Litton.  
ABSENT: Mr. Bass and Gecker.

Mr. Gecker returned to the meeting at approximately 7:33 p. m.

**06SN0141:\*** In Clover Hill Magisterial District, **TBA DEVELOPMENT LLC** requested rezoning and amendment of zoning district map from Agricultural (A) to Residential (R-12). Residential use of up to 3.63 units per acre is permitted in a Residential (R-12) District. The Comprehensive Plan suggests the property is appropriate for medium density residential use of 1.51 to 4.0 units per acre. This request lies on 27.6

acres lying at the northern termini of South Twilight Lane and Oxer Road. Tax IDs 757-696-7441 and 8070 and 758-696-2884 (Sheet 11).

Mr. Andy Scherzer, the applicant's representative, accepted deferral of the request by Mr. Gulley to the March 21, 2006, Planning Commission public hearing.

There was no opposition to the deferral.

The following motion was made at Mr. Gulley's request.

On motion of Mr. Gulley, seconded by Mr. Litton, the Commission, on their own motion, resolved to defer Case 06SN0141 to the March 21, 2006, Planning Commission public hearing.

AYES: Messrs. Wilson, Gecker, Gulley and Litton.

ABSENT: Mr. Bass.

♦ **REQUESTS WHERE THE APPLICANT ACCEPTS THE RECOMMENDATION AND THERE IS NO OPPOSITION PRESENT.**

**06SN0167:** In Clover Hill Magisterial District, **STEMMLE ENTERPRISES LLC** requested amendment to Conditional Use Planned Development (Case 87S016) and amendment of zoning district map to permit an automobile service station and to delete the condition requiring use of public water and sewer. The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for light industrial use. This request lies in a Light Industrial (I-1) District on 1.1 acres fronting approximately 170 feet on the west line of Oak Lake Boulevard approximately 450 feet south of Oak Lake Court. Tax ID 735-690-6552 (Sheet 10).

Mr. John Easter, the applicant's representative, accepted staff's recommendation, noting the application had been amended to withdraw the request for deletion of the requirement to connect to public water and wastewater.

No one came forward to speak in favor of, or in opposition to, the request.

On motion of Mr. Gulley, seconded by Mr. Litton, the Commission acknowledged withdrawal of the request for relief to the connection requirement to public utilities.

AYES: Messrs. Wilson, Gecker, Gulley and Litton.

ABSENT: Mr. Bass.

On motion of Mr. Gulley, seconded by Mr. Litton, the Commission resolved to recommend approval of Case 06SN0167, subject to the following condition:

**CONDITION**

The Textual Statement, dated February 2, 2005, shall be considered the plan of development. (P)

(This condition is in addition to the conditions of approval of Case 87S016.)



AYES: Messrs. Wilson, Gecker, Gulley and Litton.  
ABSENT Mr. Bass.

**06SN0168:** In Midlothian Magisterial District, **JEFF SMALL** requested rezoning and amendment of zoning district map from Community Business (C-3) to Community Business (C-3). The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for community mixed use. This request lies on 2.2 acres and is known as 8220 Midlothian Turnpike. Tax ID 758-706-9917 (Sheet 7).

Mr. Andy Scherzer, the applicant's representative, accepted staff's recommendation.

Mr. Wilson opened the discussion for public comment.

A representative for the Gateway Association supported the request.

There being no opposition and/or no one else to speak, Mr. Wilson closed the public comment.

On motion of Mr. Gecker, seconded by Mr. Gulley, the Commission resolved to recommend approval of Case 06SN0168.

AYES: Messrs. Wilson, Gecker, Gulley and Litton.  
ABSENT Mr. Bass.

**06SN0170:** In Clover Hill Magisterial District, **ROGER L. TUTTLE** requested a Conditional Use and amendment of zoning district map to permit a two (2) family dwelling in a Residential (R-7) District. Residential use of up to 4.84 units per acre is permitted in a Residential (R-7) District. The Comprehensive Plan suggests the property is appropriate for single family residential use of 2.0 units per acre or less. This request lies on 0.3 acre and is known as 13624 Northwich Drive. Tax ID 729-679-7489 (Sheet 15).

Mr. Roger Tuttle, the applicant, accepted staff's recommendation.

Mr. Wilson opened the discussion for public comment.

Ms. Patterson Goldberg opposed, and asked the Commission to defer, the request to allow Mr. Gulley to meet with her and others to resolve their concerns.

Ms. Jane Pritz, Community Manager for the Brandermill Community Association, supported the request provided approval would be granted to only the applicant and would limit occupancy of the second dwelling to guests, domestic servants or family members of the Tutttles.

Ms. Andrea Epps, a Brandermill Subdivision, supported the request provided the Conditional Use was granted to the applicant only and did not run with the land.

There was discussion relative to the imposition of an additional condition to address the previously expressed concerns that the use be granted to and for Roger L. Tuttle or his immediate family only and shall not be transferable nor run with the land.

Mr. Ernest Mendell, an adjacent property owner, referenced a petition that he stated reflected the concern that the use be granted to only the family and not run with the land.

There being no one else to speak, Mr. Wilson closed the public comment.

On motion of Mr. Gulley, seconded by Mr. Litton, the Commission resolved to recommend approval of Case 06SN0170, subject to the following conditions:

#### CONDITIONS

1. Occupancy of the second dwelling unit shall be limited to: the occupants of the principal dwelling unit, individuals related to them by blood, marriage, adoption or guardianship, foster children, guests and any domestic servants. (P)
2. For the purpose of providing record notice, within thirty (30) days of approval of this request, a deed restriction shall be recorded setting forth the limitation in Condition 1 above. The deed book and page number of such restriction and a copy of the restriction as recorded shall be submitted to the Planning Department. (P)
3. This Conditional Use shall be granted to and for Roger L. Tuttle or his immediate family only and shall not be transferable nor run with the land. (P)

AYES: Messrs. Wilson, Gecker, Gulley and Litton.  
ABSENT Mr. Bass.

**06SN0175:** In Matoaca Magisterial District, **HERON POINTE NEIGHBORHOOD, LLC** requested amendment to Conditional Use Planned Development (Case 99SN0255) and amendment of zoning district map relative to setbacks and garage orientation. The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for single family residential use of 2.0 units per acre or less. This request lies in a Residential (R-15) District on 39.5 acres fronting approximately 1,350 feet on the south line of Genito Road approximately 1,360 feet east of Otterburn Road. Tax IDs 715-684-7167 and 716-684-4492 (Sheet 9).

Mr. Andy Scherzer, the applicant's representative, accepted staff's recommendation.

No one came forward to speak in favor of, or in opposition to, the request.

On motion of Mr. Gulley, seconded by Mr. Litton, the Commission resolved to recommend approval of Case 06SN0175 and acceptance of the following proffered conditions:

#### PROFFERED CONDITIONS

1. Front loaded garages shall be located no closer to the street than the front facade of the dwelling unit. (P)

(STAFF NOTE: This proffered condition supersedes Proffered Condition 11 of Case 99SN0255.)

2. Side Yard. Each lot shall have side yards of a minimum of five (5) feet in width or each lot shall have one (1) side yard not less than ten (10) feet in width and one (1) side yard not less than zero (0) feet in width. (P)

(STAFF NOTE: This proffered condition supersedes Item #4 of the Textual Statement for Case 99SN0255.)

(STAFF NOTE: All other proffered conditions of Case 99SN0255 remain applicable.)

AYES: Messrs. Wilson, Gecker, Gulley and Litton.  
ABSENT Mr. Bass.

**06SN0183:** In Bermuda Magisterial District, **SPRINT** requested a Conditional Use and amendment of zoning district map to permit a communications tower in an Agricultural (A) District. The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for public use. This request lies on 1.0 acre fronting approximately twenty (20) feet on the north line of Ecoff Avenue approximately 1,980 feet east of Ivywood Road. Tax ID 783-656-Part of 7299 (Sheet 26).

Mr. Richard Nayduch, the applicant's representative, accepted staff's recommendation.

No one came forward to speak in favor of, or in opposition to, the request.

On motion of Mr. Wilson, seconded by Mr. Gulley, the Commission resolved to recommend approval of Case 06SN0183, subject to the following conditions:

#### CONDITIONS

1. There shall be no signs permitted to identify this use. (P)
2. The base of the tower shall be enclosed by a minimum six (6) foot high fence, designed to preclude trespassing. The fence shall be placed so as to provide sufficient room between the fence and the property line to accommodate evergreen plantings having an initial height and spacing to provide screening of the base of the tower and accessory ground-mounted equipment or structures from adjacent properties. In conjunction with site plan submission, or prior to release of a building permit, whichever occurs first, a landscaping plan depicting this requirement shall be submitted to the Planning Department for review and approval. (P)
3. The color and lighting system for the tower shall be as follows:
  - a. The tower shall be gray or another neutral color, acceptable to the Planning Department.

- b. The tower shall not be lighted.
- c. The tower shall be a monopole structure (P)
- 4. Any building or mechanical equipment shall comply with Sections 19-595 and 19-570 (b) and (c) of the Zoning Ordinance relative to architectural treatment of building exteriors and screening of mechanical equipment. (P)

(NOTE: Section 19-570 (b) and (c) would require the screening of mechanical equipment located on the building or ground from adjacent properties and public rights of way. Screening would not be required for the tower or tower-mounted equipment.)

- 5. The tower shall not exceed a height of 180 feet. (P)
- 6. At such time that the tower ceases to be used for communications purposes for a period exceeding twelve (12) consecutive months, the owner/developer shall dismantle and remove the tower and all associated equipment from the property. (P)

AYES: Messrs. Wilson, Gecker, Gulley and Litton.  
 ABSENT Mr. Bass.

**06SN0187:** In Dale Magisterial District, **CHIMENTO PROPERTIES, LLC** requested rezoning and amendment of zoning district map from Light Industrial (I-1) to General Business (C-5). The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for general commercial use. This request lies on 9.0 acres fronting approximately 200 feet on the south line of Hull Street Road approximately 550 feet east of Speeks Drive. Tax ID 747-684-0045 (Sheet 10).

Mr. William Shewmake, the applicant's representative, accepted staff's recommendation.

No one came forward to speak in favor of, or in opposition to, the request.

On motion of Mr. Litton, seconded by Mr. Gulley, the Commission resolved to recommend approval of Case 06SN0187 and acceptance of the following proffered conditions:

#### PROFFERED CONDITIONS

- 1. Within 200 feet of the ultimate right-of-way of Hull Street Road, uses permitted shall be restricted to those permitted by right or with restrictions in the Community Business (C-3) District. (P)
- 2. The rear yard setback for all buildings, parking and drives shall be a minimum of 100 feet depth. This 100 foot area shall be landscaped so as to minimize the view of the development from the adjacent property to the south. The exact species, size and location shall be determined at the time of site plan review. (P)

3. Unless modified by the Planning Commission at the time of site plan review based upon a determination that an alternative design or other measures would provide effective screening comparable to that required herein, buildings located within 150 feet of the southern property line shall be oriented generally parallel to the southern property line with no openings within the rear (southern) wall of the buildings, except for fire exits, as specifically required by the Fire Department. Where there are breaks between the buildings located within 150 feet of the southern property line, a solid wall constructed of materials compatible with the buildings shall be installed between the buildings. Unless modified by the Planning Commission as discussed herein, there shall be no driveway or parking areas located between the buildings and the southern property line. (P)
4. Direct vehicular access from the property to Hull Street Road (Route 360) shall be limited to one (1) existing entrance/exit (i.e., Hendricks Road), located at the western property line. (T)
5. Prior to issuance of an occupancy permit, additional pavement shall be constructed along Route 360 at the Hendricks Road intersection to provide a right turn lane, based on Transportation Department standards. The developer shall dedicate to Chesterfield County, free and unrestricted, any additional right-of-way (or easements) required for this road improvement. Provided, however, in the event the developer is unable to acquire any "off-site" right-of-way that is necessary for such improvement, the developer may request, in writing, that the County acquire such right-of-way as a public road improvement. All costs associated with the acquisition of the right-of-way shall be borne by the developer. In the event the County chooses not to assist the developer in acquisition of the "off-site" right-of-way, the developer shall be relieved of the obligation to acquire the "off-site" right-of-way and shall provide the road improvements within available right-of-way, as determined by the Transportation Department. (T)

AYES: Messrs. Wilson, Gecker, Gulley and Litton.  
ABSENT Mr. Bass.

**06SN0208:** In Clover Hill Magisterial District, **GREGG W. BECK** requested rezoning and amendment of zoning district map from Corporate Office (O-2) to Light Industrial (I-1) plus Conditional Use to permit use exceptions. The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for residential use of 1.51 to 4.0 units per acre. This request lies on 2.1 acres and is known as 413 Branchway Court. Tax IDs 742-705-5897 and 742-706-8009 (Sheet 6).

Mr. Gregg Beck, the applicant, accepted staff's recommendation.

No one came forward to speak in favor of, or in opposition to, the request.

On motion of Mr. Gulley, seconded by Mr. Litton, the Commission resolved to recommend approval of Case 06SN0208, subject to the following condition:

#### CONDITION

In addition to Light Industrial (I-1) uses, the following uses shall be permitted:

- a. contractor's offices and display rooms;
- b. electrical, plumbing and heating supply sales, service and related display rooms; and
- c. repair services, excluding motor vehicle repair (P)

AYES: Messrs. Wilson, Gecker, Gulley and Litton.  
 ABSENT Mr. Bass.

**06SN0191:\*** (Amended) In Midlothian and Matoaca Magisterial Districts, **THE CHESTERFIELD COUNTY BOARD OF SUPERVISORS** requested rezoning and amendment of zoning district map from Agricultural (A) and Corporate Office (O-2) to General Industrial (I-2) with Conditional Use Planned Development to permit exceptions to Ordinance requirements. The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for regional employment center and neighborhood mixed use uses. This request lies on 786.4 acres fronting the north line of Midlothian Turnpike between Route 288 and Huguenot Springs Road; on the south line of Midlothian Turnpike between Route 288 and Old Hundred Road; and fronting the west line of Huguenot Springs Road, approximately 2,800 feet north of Midlothian Turnpike. Tax IDs 710-708-3025, 5217 and 9532; 712-709-9100; 712-710-2733, 8193 and 9557; 712-711-1562 and 2690; 712-712-2923; 713-708-4574; 713-712-Part of 8031; 714-707-6311 and 9182; 714-712-9323; 715-705-2469; 715-706-5039; 715-710-0250 and 8459; 715-711-0444 and 4043; 715-712-3508; 716-710-0846, 1325, 1707 and 2342; 716-713-Part of 5414; 717-708-Part of 2972; 717-711-0537 and 0707; 718-705-6022; 718-706-3636; 719-703-5024; 720-703-7536; and 720-704-Part of 3574 (Sheet 5).

In response to Mr. Wilson's inquiry, several individuals indicated they wished to speak to the request; therefore, it was the consensus of the Commission to place Case 06SN0191 with those cases requiring discussion.

◆ **CODE AMENDMENTS RELATING TO:**  
**PERMITTED USES BY-RIGHT IN THE MH-2 ZONING DISTRICT.**

◆ ◆ ◆

An Ordinance to amend the Code of the County of Chesterfield, 1997, as amended, by amending and re-enacting Section 19-118 of the Zoning Ordinance relating to permitted uses by right in the MH-2 Zoning District. Specifically, in manufactured home or mobile home subdivisions, the proposed amendment would prohibit shipping containers, trailers, vehicle bodies and similar containers (i) from being used for any permitted use in the MH-2 District and (ii) from being converted from their original use to be used for any permitted use in the MH-2 District.

◆ ◆ ◆

Ms. Fassett presented an overview of the proposed Code Amendment and staff's recommendation.

No one came forward to speak in favor of, or in opposition to, the proposal.

On motion of Mr. Gulley seconded by Mr. Litton, the Commission resolved to recommend approval of the following Code Amendment:

(1) *That Section 19-118 of the Code of the County of Chesterfield, 1997, as amended, be amended and re-enacted to read as follows:*

**Sec. 19-118. Permitted uses by right.**

The following uses shall be permitted by right in the MH-2 District:

- (a) Those uses permitted by right in the R-88 District, except single-family dwellings.
- (b) Manufactured or mobile home subdivisions. Provided, however, that no shipping containers, trailers, vehicle bodies or similar containers shall be used for or converted from their original use to be used for any permitted use.

(2) *That this ordinance become effective immediately upon adoption. (1925:70817.1)*

AYES: Messrs. Wilson, Gecker, Gulley and Litton.

ABSENT: Mr. Bass.

**MULTIFAMILY AND TOWNHOUSE USES IN C-3, C-4 AND C-5 DISTRICTS.**



An Ordinance to amend the Code of the County of Chesterfield, 1997, as amended, by amending and re-enacting Sections 19-159, 19-161 and 19-166 of the Zoning Ordinance relating to multifamily and townhouse uses permitted in the C-3 and C-4 Districts. The proposed amendments would: 1) remove residential multifamily and townhouses from the list of restricted uses in the C-3 District; 2) add residential multifamily and townhouses to the list of Conditional Uses in the C-3 District; and 3) remove references to residential multifamily and townhouses from the C-4 District list of restricted uses. This amendment would also affect properties in the C-5 District since Conditional Uses in the C-3 District are also listed as Conditional Uses in the C-5 District.



Mr. Schlaudt presented an overview of the proposed Code Amendment and staff's recommendation; noted the proposal had been re-advertised/re-noticed for public hearing to ensure appropriate and timely notification to affected parties; and that staff had conducted additional background analysis on the proposed amendment and had mapped properties affected by the amendment, which he outlined.

Messrs. Jim Theobald, Oliver D. "Skitch" Rudy and Mike Ezelle, representing the development community, expressed concerns relative to the adverse impact the proposed Code Amendment would have on townhouse/multifamily residential development and asked the Commission to either recommend denial of the proposal or defer the matter to allow further discussion.

There being no further public comment, Mr. Wilson closed the public hearing.

Mr. Litton referenced a letter from Mr. Tyler Craddock, Director of Public and Government Affairs for the Home Building Association of Richmond, urging the Commission to recommend denial of the proposal.

There was discussion relative to vesting of property owners previously zoned under the current standards; the burden of additional unnecessary time and costs to the development proves for landowners if the proposal were approved; and other concerns.

Messrs. Gecker and Litton stated they felt there was a compelling argument to further study the matter.

On motion of Mr. Gecker, seconded by Mr. Litton, the Commission, noting the public hearing was closed, resolved to defer action relative to the proposed Code Amendment relating to multifamily and townhouse uses in C-3, C-4 and C-5 Districts to the March 21, 2006, Planning Commission meeting, to allow staff to bring forward additional information.

AYES: Messrs. Wilson, Gecker, Gulley and Litton.

ABSENT: Mr. Bass.

The Commission recessed at approximately 8:13 p. m.

The Commission reconvened at approximately 8:36 p. m.

◆ **REQUESTS WHERE THE APPLICANT DOES NOT ACCEPT THE RECOMMENDATION AND/OR THERE IS PUBLIC OPPOSITION PRESENT.**

Mr. Turner recalled Case 06SN0191, The Chesterfield County Board of Supervisors.

**06SN0191:\*** (Amended) In Midlothian and Matoaca Magisterial Districts, **THE CHESTERFIELD COUNTY BOARD OF SUPERVISORS** requested rezoning and amendment of zoning district map from Agricultural (A) and Corporate Office (O-2) to General Industrial (I-2) with Conditional Use Planned Development to permit exceptions to Ordinance requirements. The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for regional employment center and neighborhood mixed use uses. This request lies on 786.4 acres fronting the north line of Midlothian Turnpike between Route 288 and Huguenot Springs Road; on the south line of Midlothian Turnpike between Route 288 and Old Hundred Road; and fronting the west line of Huguenot Springs Road, approximately 2,800 feet north of Midlothian Turnpike. Tax IDs 710-708-3025, 5217 and 9532; 712-709-9100; 712-710-2733, 8193 and 9557; 712-711-1562 and 2690; 712-712-2923; 713-708-4574; 713-712-Part of 8031; 714-707-6311 and 9182; 714-712-9323; 715-705-2469; 715-706-5039; 715-710-0250 and 8459; 715-711-0444 and 4043; 715-712-3508; 716-710-0846, 1325, 1707 and 2342; 716-713-Part of 5414; 717-708-Part of 2972; 717-711-0537 and 0707; 718-705-6022; 718-706-3636; 719-703-5024; 720-703-7536; and 720-704-Part of 3574 (Sheet 5).

Ms. Rogers presented an overview of the request and staff's recommendation, noting the proposed zoning and land uses conformed to the Route 288 Corridor Plan and were representative of, and compatible with, existing and anticipated area development.



Mr. Gecker expressed concerns relative to the late submittal of information; questioned the feasibility of proceeding with the request when staff, the Commission and the public had not had sufficient time to review or respond to the late submitted information; and indicated he felt the request should be deferred.

Mr. Gecker made a motion to defer Case 06SN0191 to the March 21, 2006, Planning Commission public hearing.

Mr. Gulley seconded the motion to allow comments by the Planning Commission.

Mr. Wilson stated the request had been before the public in various iterations for several months and he could not support deferral as he felt such action would jeopardize an economic development opportunity for the County.

Mr. Gulley stated he empathized with Mr. Gecker's concerns relative to the late submittal of information, expressing concerns that he had not become aware until the previous weekend that the County Regional Best Management Practices Plan had been rejected by the Environmental Protection Agency. He stated that, after reviewing the environmental aspect of the "Request Analysis," he felt the wording regarding the sediment basins was inadequate and he realized the request did not meet the water quality standards.

Mr. Wilson opened the discussion for public comment relative to the deferral.

Mr. John Easter, the applicant's representative, disagreed with the characterization of the case process by Mr. Gecker, stating he felt the request was in the appropriate posture to be forwarded to the Board of Supervisors.

Mr. Mark Klein, representing The Macerich Company, owners of Chesterfield Towne Center, supported the deferral, noting he felt Mr. Gecker's comments were valid and there needed to be further discussion relative to the impact of the proposal on area development.

There being no one else to speak, Mr. Wilson closed the public comment regarding the deferral.

The vote on Mr. Gecker's motion for deferral of Case 06SN0191 to the March 21, 2006, Planning Commission public hearing was as follows:

AYES: Messrs. Gecker and Gulley.  
NAYS: Messrs. Wilson and Litton.  
ABSENT: Mr. Bass.

The motion failed.

Mr. John Easter, the applicant's representative, presented an overview of the request, noting a recommendation for approval was warranted in that the proposed development was an economic opportunity for the County that would provide jobs and tax revenues. He further outlined modifications to the proposal that had transpired since the January 2006 meeting relative to the Textual Statement, design requirements, "main street" requirements, uses, and other elements.

Ms. Faith McClintic, Assistant Director of Economic Development, presented a computer-generated summary of the advantages and primary benefits warranting a recommendation for approval of the request.

In response to questions from the Commission, Mr. Easter addressed concerns relative to infrastructure (i.e., utilities, proposed road improvements and access).

Mr. Wilson opened the discussion for public comment.

Mr. Mark Klein and Mr. David J. Contis, representing The Macerich Company, owners of Chesterfield Towne Center; and Ms. Claudia Simon, a property owner adjacent to Chesterfield Towne Center; voiced opposition to the request, citing concerns relative to the amount of retail square footage, the transfer of sales from elsewhere in the County versus creation of new retail dollars and new employment opportunities; and that the proposed development would only serve to adversely impact the entire Midlothian retail corridor.

Mr. Steve Erie, representing the Chesterfield Business Council; Ms. Noli Barnes, Vice President of the HCA Development Group; Mr. Sam Kaufman, representing the Chesterfield County Chamber of Commerce; Mr. John V. Cogbill, III, representing the property owners; Ms. Shelly Schuetz, a Matoaca District resident; and Mr. Jim Poulsifer, a Midlothian resident, voiced support for the request citing the economic opportunities the project would provide the County by generating new retail dollars, new employment opportunities and attracting sales from other areas of the region.

Dr. Tom Pakurar, a County resident, expressed concerns relative to the environmental impact of the proposed development on the Upper Swift Creek Reservoir and stated he felt, given the most recent rejection of the County's Regional Best Management Plan by the Environmental Protection Agency, the proposed Textual Statement should be modified to delete any reference to the Regional BMP Plan and the County would best be served by requiring the developer to construct his own BMP.

Ms. Amy Satterfield, Executive Director of the Village of Midlothian Volunteer Coalition, did not support or oppose the request but expressed concerns relative to the timeliness of the submittal and distribution of information so the public could have an opportunity to review/discuss the material and have their concerns addressed.

Mr. Robert Sheehan, Vice President Research for Finard & Company, presented an explanation of life-style center developments and an assessment of the retail sales potential of shopping center development opportunities.

There being no one else to speak, Mr. Wilson closed the public comment.

The Commission recessed at approximately 10:47 p. m.

The Commission reconvened at approximately 11:00 p. m.

In response to questions from the Commission, Messrs. Phelps, McCracken and Turner addressed concerns relative to utilities, transportation improvements and land uses issues.

Mr. Gecker expressed concerns that the application failed to successfully accomplish the recommendation of the Route 288 Plan and recommended imposition of conditions to provide for a meaningful definition of main street and infrastructure to encourage regional employment center development with the initial phase of construction.

On motion of Mr. Gecker, seconded by Mr. Gulley, the Commission resolved to recommend approval of Case 06SN0191, subject to the following condition:

CONDITIONS AS RECOMMENDED BY THE PLANNING COMMISSION:

1. The Textual Statement dated January 20, 2006, as revised February 17, 2006, shall be considered the Master Plan. (P)
2. Site Plans which include documentation of compliance with the design standards required by Textual Statement II.E. for Tract B shall be submitted to the Planning Commission for review and approval. (P)
3. Requirements for Main Street Area. Within the Main Street Area, the following additional requirements shall be met:
  - (a) All development shall incorporate "main street" characteristics including, but not limited to, uses fronting, and adjacent to, sidewalks having street trees, pedestrian-scale street lights, benches and other pedestrian features; on-street parking; landscaped pedestrian streets lined with restaurants and shops; and plazas and open spaces with benches and fountains;
  - (b) A public gathering area shall be provided for public and semi-public uses, such as area civic association events, special commercial events and cultural activities, with adjacent uses that adjoin, front on, or are adjacent to at least two sides of the public gathering area;
  - (c) A minimum of 300,000 gross square feet shall be developed within the Main Street Area. Development of this area may be phased in accordance with the requirements of these conditions:
    - (i) Prior to issuance of any building permits for more than 300,000 gross square feet of uses located outside of the "main street" area, a minimum of 175,000 gross square feet of the "main street" ("initial main street") shall have been issued building permits and at a minimum the 175,000 gross square feet shall have substantially completed foundation(s) and/or slab(s) to accommodate the "initial main street";
    - (ii) Prior to the issuance of any building permit for more than 300,000 gross square feet located outside of the "main street" area, the Developer shall have provided adequate assurance of the development of at least a minimum of three (3) restaurants that are not fast-food or carry-out restaurants, cinema or other entertainment use and a bookstore plus a user having a minimum of 30,000 gross square feet other than the aforementioned uses that is not at the time located within Chesterfield County. Such assurance shall be provided with documentation from the Developer to the Director of Economic Development that the Developer has executed, arms-length agreements for aforementioned users to occupy within

eighteen (18) months from the date of documentation and the remaining "initial main street" square footage to be occupied within eighteen (18) months from the date of documentation. In accordance with the requirements of the Virginia Freedom of Information Act, Va. Code § 2.2-3705.6(3), any such information provided to the Director of Economic Development shall be subject to a confidentiality agreement that will protect against any disclosure by the Economic Development Department of the identity of the tenants or other information from which the identity of the tenants could be determined.

- (iii) Except for a cinema, other entertainment use, bookstore or one (1) user not located within Chesterfield County, no single user shall exceed 30,000 gross square feet, provided however, that users having a maximum of 100,000 gross square feet shall be permitted, but shall not be credited toward the minimum required initial or ultimate square footage buildout requirements stated herein for the "main street". (P)

**(NOTE: THIS CONDITION SUPERCEDES TEXTUAL STATEMENT II.B.3)**

4. *Sediment Basin/BMPs.* For those portions of the Property that drain southward through a planned regional BMP and into the Swift Creek Reservoir, temporary sediment basins shall remain in place and/or new BMPs shall be constructed to achieve the .45 phosphorus standard until the downstream regional BMP into which the development will drain has been constructed. For those portions of the Property that drain southward toward the Swift Creek Reservoir but do not drain through a planned regional BMP, temporary sediment basins shall remain in place and/or new BMPs shall be constructed to achieve the .45 phosphorus standard until all the Regional BMPs in the Tomahawk subwatershed of the Upper Swift Creek Watershed have been constructed. Unless otherwise approved by the Planning Commission, the sediment basins and/or new BMPs that are to be used to achieve the .45 phosphorus standard shall be designed as amenities. (EE)

**(NOTE: THIS CONDITION SUPERCEDES TEXTUAL STATEMENT IV.B.)**

5. *Rail Station.* Upon request by the Transportation Department, a maximum of five (5) acres north of the rail line and within the boundaries of the Initial Development Parcels shall be dedicated to and for Chesterfield County free and unrestricted for the purpose of a rail station and accompanying park and ride facilities. Prior to any site plan approval within 1500 feet of the rail line, the site shall be identified and the site shall be reserved for a minimum of fifteen (15) years. The exact location of the site shall be approved by the Transportation Department. (T)
6. *Emergency Services Site.* Prior to site plan approval of any development in Tract B, a minimum of eight (8) acres within the boundaries of the Initial Development Parcels for a fire/rescue station shall be reserved until 2022 or until an alternate site is identified and chosen by the county for the West Salisbury Fire/Rescue Station identified in the Public Facilities Plan adopted April 14, 2004, whichever occurs first. The exact location of the site shall be approved by the Fire Department. Upon request by the Fire Department, the site shall be dedicated to and for Chesterfield County free and unrestricted. (F)

## 7. Transportation

### A. Traffic Study

Prior to any site plan approval for any development within the Initial Development Parcels, a traffic study acceptable to the Transportation Department and including among other things calculations of storage lane lengths at locations requested by the Transportation Department, shall be submitted to and approved by the **Planning Commission**. Additional road improvements, above those specified in the Textual Statement paragraph VI(C)(1), as indicated in the approved traffic study shall be provided by the developer(s) or the densities specified in Textual Statement paragraph VI(B) for Tract B, Tract C and for the Initial Development Parcels included in Tract A shall be reduced to the extent that acceptable levels of service are provided, as determined by the **Planning Commission**. The required improvements specified in the Textual Statement paragraph VI, with the exception of the improvements required for the development of Tract B, may be reduced by the Planning Commission to the extent the traffic study demonstrates that full development of the Property will be adequately served by such lesser improvements and that acceptable levels of service are provided.

### B. Road Improvements/Dedications for the Initial Development Parcels

- 1) The improvements and dedications outlined in the Textual Statement under Item VI.C.1) shall include constructing, from northbound Watkins Center Parkway to northbound Route 288, direct access (i.e., a grade separated fly-over), including collector distributor lanes onto Route 288.
- 2) *Phasing Plan.* Prior to site plan approval for any development within the Initial Development Parcels, a phasing plan for the improvements/dedications described above shall be submitted to and approved by the Transportation Department.
  - (a) *Phasing Plan for Tract B.*
    - (i) The approved phasing plan for any development in Tract B shall require, among other things, the developer to provide, prior to issuance of any building permit in Tract B, a bond or other surety, in an amount and form acceptable to the Transportation Department, for the improvements identified in the Textual Statement conditions VI(C)(1)(a) (only section from east of the Route 288 interchange to approximately 1,000 feet west of Watkins Center Parkway), VI(C)(1)(b), VI(C)(1)(d), VI(C)(1)(f) (any section located within Tract B), VI(C)(1)(g) (only section located within Tract B), VI(C)(1)(h), VI(C)(1)(j), **VI(C)(1)(c), VI(C)(1)(e) and Condition 7.B.1)** and the completion of these improvements, as determined by the Transportation Department, prior to the issuance of any occupancy permits in Tract B. The exact location, length, and design of these improvements shall be approved by the Transportation Department.

**C. Funding Mechanism.**

To the extent certain road improvements, **other than Textual Statement VI(C)(1)(b) and Condition 7.B.1)** required herein are financed through a Community Development Authority or other funding mechanism approved by the Board of Supervisors and are constructed within the timeframes identified herein, the requirements contained herein for the specific road improvements that are the subject of the approved funding mechanism shall be deemed satisfied. (T)

**(NOTE: THIS CONDITION SUPERCEDES CONDITIONS VI(A), VI(C)(2), AND VI(F) OF THE TEXTUAL STATEMENT.)**

AYES: Messrs. Wilson, Gecker, Gulley and Litton.  
ABSENT: Mr. Bass.

At approximately 11:40 p. m., in accordance with the Commission's By-Laws, it was on motion of Mr. Gecker, seconded by Mr. Gulley, that the Commission suspended their By-Laws to allow consideration of the remaining cases on the agenda.

AYES: Messrs. Wilson, Gecker, Gulley and Litton.  
ABSENT: Mr. Bass.

**06SN0165:** In Midlothian Magisterial District, **H. H. HUNT CORPORATION** requested amendment to Conditional Use Planned Development (Case 05SN0243) and amendment of zoning district map relative to development standards. The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for low density residential use of 1.01 to 2.0 units per acre. This request lies in a Residential (R-9) District on 5.6 acres fronting approximately 600 feet on the north line of North Woolridge Road approximately 1,600 feet west of Charter Colony Parkway. Tax ID 723-705-Part of 8818 (Sheet 5).

Mr. Clay presented an overview of the request and staff's recommendation for denial, noting the proposal represented an intensification of uses which did not comply with the Midlothian Area Community Plan.

Mr. Jim Theobald, the applicant's representative, did not accept staff's recommendation, noting the purpose of the amendment was to remove the square footage restriction for the day care and to ensure that the ATM machine at the bank could be used after hours.

Mr. Wilson opened the discussion for public comment.

Ms. Amy Satterfield, Executive Director of the Village of Midlothian Volunteer Coalition, supported the request and expressed appreciation to the applicant for addressing concerns relative to the boundaries of the Village.

Ms. Elaine Beard, a resident of LeGordon Drive and Vice Chair of the Midlothian Civic Association, expressed concerns relative to the impact of the proposal on her community and asked the Commission to

defer the matter until area residents could obtain adequate information about the project and allow them to meet with the applicant to resolve their concerns.

There being no one else to speak, Mr. Wilson closed the public comment.

Mr. Gecker stated he appreciated Ms. Beard's concerns; however, the request was a housekeeping measure, deferral would present a hardship to the applicant and he could not in good conscience ask the applicant to defer the request any further.

On motion of Mr. Gecker, seconded by Mr. Gulley the Commission resolved to recommend approval of Case 06SN0165 and acceptance of the following proffered condition:

#### PROFFERED CONDITION

The property owner/applicant in this rezoning case, pursuant to Section 15.2-2298 of the Code of Virginia (1950 as amended) and the Zoning Ordinance of Chesterfield County, for itself and its successors or assigns, proffer that the property under consideration will be developed according to the following proffer if, and only if, the rezoning request submitted herewith is granted with only those conditions agreed to by the owner/applicant. In the event this request is denied or approved with conditions not agreed to by the owner/applicant, the proffer shall immediately be null and void and of no further force or effect.

The Textual Statement, dated January 23, 2006, shall be considered the Master Plan relative to permitted uses, architectural style, street lights along Woolridge Road, size of individual buildings, gross floor area per acre for child care and bank/offices and hours that uses may be open to the public. (P)

(STAFF NOTE: This condition supersedes Case 05SN0243, Textual Statement, DETAILED TRACT CONDITIONS, Tract 1, 2.)

AYES: Messrs. Wilson, Gecker, Gulley and Litton.  
ABSENT: Mr. Bass.

**06SN0189:** In Bermuda Magisterial District, **HUNT INVESTMENTS, L.L.C.** requested rezoning and amendment of zoning district map from Agricultural (A) and Residential (R-7) to Multifamily Residential (R-MF) with Conditional Use Planned Development to permit exceptions to Ordinance requirements. Residential use of up to 10.00 units per acre is permitted in a Multifamily Residential (R-MF) District. The Comprehensive Plan suggests the property is appropriate for residential use of 2.51-4 units per acre and 7.01 or more units per acre. This request lies on 5.2 acres located in the southwest quadrant of the intersection of Chippenham Parkway and Strathmore Road. Tax IDs 787-685-1792, 6487 and 6794; and 787-686-6406 (Sheet 12).

Mr. Clay presented an overview of the request and staff's recommendation.

Mr. John Easter, the applicant's representative, accepted staff's recommendation.

Mr. Wilson opened the discussion for public comment.

Ms. Margaret Davis, President of the Bensley Civic Association; Ms. Ree Hart, President of the Ampthill Civic Association; Ms. Rene Eldred, Vice President of the Bensley Civic Association; Ms. Rose Witt, an adjacent property owner; Mr. David Day and Ms. Rita Coppedge, residents of the apartment complex; opposed the request citing concerns relative to building height; density; three (3) bedroom units; the high number of area rental units; and traffic and school impacts. Also, a suggestion was made to defer the request to allow time to further discuss site design and other issues.

There being no one else to speak, Mr. Wilson closed the public comment.

In response to questions from the Commission, staff addressed concerns relative to density credits, capital facilities impacts; and other concerns. There was also discussion relative to GAP funding and/or deadline requirements.

Mr. Wilson indicated that while this was an opportunity to revitalize the property, there had been insufficient time to address area residents' concerns.

On motion of Mr. Wilson, seconded by Mr. Gecker, the Commission resolved to recommend denial of Case 06SN0189.

AYES: Messrs. Wilson, Gecker, Gulley and Litton.  
ABSENT: Mr. Bass.

**05SN0328:\*** In Matoaca Magisterial District, **BERNARD SAVAGE** requested rezoning and amendment of zoning district map from Agricultural (A) and Residential (R-9) to Residential Townhouse (R-TH) with Conditional Use Planned Development to permit exceptions to Ordinance requirements. Residential use of up to 8.0 units per acre is permitted in a Residential Townhouse (R-TH) District. The Comprehensive Plan suggests the property is appropriate for single family residential use of 2.0 units per acre or less. This request lies on 5.5 acres fronting approximately 300 feet on the north line of Genito Road, also fronting approximately 600 feet on the east line of North Woolridge Road and located in the northeast quadrant of the intersection of these roads. Tax IDs 719-685-2188 and 3788; 719-686-1637, 2337, 2706, 3038, 3423 and 4238; 719-687-Part of 2245; and 720-686-Part of 3234 (Sheet 9).

Mr. Clay presented an overview of the request and staff's recommendation for approval subject to the applicant addressing concerns relative to the provision of an adequate size area for a focal point and the location of sidewalks. He also noted on February 21, 2006, the applicant submitted revisions to Proffered Condition 2 and Textual Statement, item 5, noting Proffered Condition 2 was amended to reflect a minimum lot width rather than an average lot width and the Textual Statement was amended to require the proposed buffer to be located in recorded open space and to be exclusive of certain utility easements.

Ms. Barbara Cox, Mr. Mickey Blalock and Mr. John Fogg, respectively, were present to represent the request and addressed elements of the proposal relative to stormwater requirements, site location, features of the plan, and the conceptual erosion control plan for the project.

Mr. Wilson opened the discussion for public comment.

Mr. Shawn Clouse, representing Edgewater, Sections 1 and 2; Messrs. Ray Kniphuisen and Don Hughes, residents of Edgewater; and Ms. Marlene Durfee, Executive Director of the Task Force for Responsible



Growth; opposed the request, citing concerns relative to overdevelopment of the property, density, increased traffic volumes compounding existing area traffic congestion, existing sediment basin problems, overcrowding of schools, sight distance, open space, buffers and the cumulative impact of the development on the community.

There being no one else to speak, Mr. Wilson closed the public comment.

Mr. Litton expressed concerns that the proffers fail to address minimum house size and architectural treatment.

Mr. Gulley noted that the case had been previously deferred by the Commission to address concerns relative to water quality; indicated that there had been no concerns previously as to house size and architectural treatment; and stated the applicant had, during the deferral period, addressed the concerns previously expressed.

Mr. Gecker expressed a desire to have input from Mr. Bass, the Matoaca District Commissioner, who was not present.

On motion of Mr. Gulley, seconded by Mr. Gecker, the Commission, on their own motion, resolved to defer Case 05SN0328 to the March 21, 2006, Planning Commission public hearing.

AYES: Messrs. Wilson, Gecker, Gulley and Litton.

ABSENT: Mr. Bass.

**05SN0329:\*** In Midlothian Magisterial District, **LBV INVESTMENTS** requested rezoning and amendment of zoning district map from Agricultural (A) to Residential (R-12) with Conditional Use Planned Development to permit exceptions to Ordinance requirements. Residential use of up to 3.63 units per acre is permitted in a Residential (R-12) District. The Comprehensive Plan suggests the property is appropriate for residential use of one (1) dwelling or less per acre. This request lies on 50.7 acres fronting approximately 2,990 feet on the east line of Route 288 approximately 2,600 feet north of Midlothian Turnpike. Tax IDs 716-713-Part of 5414 and 717-708-Part of 2972 (Sheets 1 and 5).

Ms. Peterson presented an overview of the request, noting on February 3 and February 20, 2006, the applicant submitted amendments to Proffered Conditions 15 and 16 and two (2) new proffered conditions, which she outlined. She stated staff recommended approval of the request subject to the applicant addressing the project focal point.

Mr. Andy Scherzer, the applicant's representative, did not accept staff's recommendation, noting the applicant had amended and provided new proffered conditions addressing transportation concerns relative to the completion of North Otterdale Road as well as concerns expressed by the adjoining Rosemont Subdivision community relative to the buffer along Otterdale Road; that the setback from the Route 288 be recorded within open space and not within individual lots; that a portion of the northwest section of property be recorded in open space; and that notification of any tentative subdivision plan submittal be provided to adjacent property owners, the last known representatives of the Rosemont Homeowners Association and the Midlothian Volunteer Coalition

No one came forward to speak in favor of, or in opposition to, the request.

On motion of Mr. Gecker, seconded by Mr. Gulley, the Commission resolved to recommend approval of Case 05SN0329 and acceptance of the following proffered conditions:

PROFFERED CONDITIONS

1. Master Plan. The Textual Statement dated June 16, 2005, and revised October 25, 2005, shall be considered the Master Plan. (P)
2. Buffers. All required buffers shall be located within recorded open space. (P)
3. Density. The maximum density of this development shall not exceed forty six (46) lots. (P)
4. Foundations. All exposed portions of the foundation and exposed piers supporting front porches of each dwelling unit shall be faced with brick or stone veneer or exterior insulation and finishing systems (EIFS) materials. (P)
5. Driveways. All private driveways shall be hardscaped. The exact treatment shall be approved at the time of plan review. (P)
6. Street Trees. Street trees shall be provided along both sides of all public roads within the development. (P)
7. Sidewalks. Sidewalks shall be provided that facilitate pedestrian access within the development. Generally, sidewalks shall be located on both sides of public roads. (P)
8. Focal Point. A minimum of 0.75 acres of open space shall be provided within the development to provide a "focal point". Part of the focal point area shall be "hardscaped" and have benches and other amenities that accommodate and facilitate gatherings. A portion of the focal point may include an area devoted to best management/storm water facilities. The focal point shall be developed concurrent with the phase of development that the focal point is intended to serve.
9. Garages. Front loaded garages shall be located no closer to the street than the front facade of the dwelling unit. (P)
10. Age Restriction. Except as otherwise prohibited by the Virginia Fair Housing Law, the Federal Fair Housing Act, and such other applicable federal, state or local legal requirements, dwelling units designated as age-restricted shall be restricted to "housing for older persons; as defined in the Virginia Fair Housing Law and no persons under 19 years of age shall reside therein." (P)
11. Senior Housing. Any dwelling units designated for senior housing as outlined in Proffered Condition 10 shall be noted on the subdivision plat. Such dwelling units shall be grouped together as part of the same development section(s). (P)

12. Impacts on Capital Facilities. The applicant, subdivider, or assignee(s) shall pay the following to the County of Chesterfield, for infrastructure improvements within the service district for the property:
- A. The applicant, subdivider, or assignee(s) shall pay to the County of Chesterfield prior to the time of issuance of a building permit for each dwelling unit, the following amounts for infrastructure improvements within the service district for the property:
    - i. If payment is made prior to July 1, 2006, \$6,685.00 per dwelling unit. At time of payment \$6,685.00 will be allocated pro-rata among the facility costs as follows: \$602.00 for parks and recreation, \$348.00 for library facilities, \$5,331.00 for schools, and \$404.00 for fire stations; or
    - ii. If payment is made after June 30, 2006, the amount approved by the Board of Supervisors not to exceed \$6,685.00 per dwelling unit pro-rated as set forth in Proffered Condition 12.A.i. above and adjusted upward by any increase in the Marshall and Swift Building Cost Index between July 1, 2005, and July 1 of the fiscal year in which the payment is made if paid after June 30, 2006.
  - B. Prior to the issuance of a building permit for each dwelling unit that is designated "age-restricted", the applicant, subdivider, or assignee(s) shall pay to the County of Chesterfield the following amounts for infrastructure improvement within the service district for the property:
    - i. If payment is made prior to July 1, 2006, \$1,354.00 per dwelling unit. At time of payment \$1,354.00 will be allocated pro-rata among the facility costs as follows: \$602.00 for parks and recreation, \$348.00 for library facilities, and \$404.00 for fire stations; or
    - ii. If payment is made after June 30, 2006, the amount approved by the Board of Supervisors not to exceed \$1,354.00 per dwelling unit pro-rated as set forth in Proffered Condition 12.B.i. above and adjusted upward by any increase in the Marshall and Swift Building Cost Index between July 1, 2005, and July 1 of the fiscal year in which the payment is made if paid after June 30, 2006.
  - C. Cash proffer payments shall be spent for the purposes proffered or as otherwise permitted by law.
  - D. Should any impact fees be imposed by the County of Chesterfield at any time during the life of the development that are applicable to the property, the amount paid in cash proffers shall be in lieu of or credited toward, but not be in addition to, any impact fees, in a manner determined by the County. (B&M)
13. Timbering. Except for timbering approved by the Virginia State Department of Forestry for the purpose of removing dead or diseased trees, there shall be no timbering on the

Property until a land disturbance permit has been obtained from the Environmental Engineering Department and the approved devices installed. (EE)

14. Access. Direct vehicular access from the property to the north/south collector ("North Otterdale Road Extended") shall be limited to one (1) public road. The exact location of this access shall be approved by the Transportation Department. (T)
15. Road Improvements. To provide an adequate roadway system, the developer shall provide the following: road improvements with the initial development of the property:
  - a. Construction of additional pavement along North Otterdale Road Extended at the approved access to provide right and left turn lanes, if warranted, based on Transportation Department standards;
  - b. Construction of two (2) lanes of North Otterdale Road Extended, to VDOT Urban Collector Standards (40 mph) with modifications approved by the Transportation Department, from its current terminus, located north of the property, to just east of the western property line of the parcel identified as Tax ID 7197123765. The exact length and location of this improvement shall be approved by the Transportation Department;
  - c. Dedication to Chesterfield County, free and unrestricted, any additional right-of-way (or easements) required for the improvements identified above. In the event the developer is unable to acquire any "off-site" right-of-way that is necessary for any improvement described in Proffered Condition 15, the developer may request, in writing, that the County acquire such right-of-way as a public road improvement. All costs associated with the acquisition of the right-of-way shall be borne by the developer. In the event the County chooses not to assist the developer in acquisition of the "off-site" right-of-way, the developer shall be relieved of the obligation to acquire the "off-site" right-of-way and shall provide the road improvements within available right-of-way, as determined by the Transportation Department. (T)
16. Transportation Contribution. The applicant, his successor(s), or assignee(s) (the "Applicant") shall pay, prior to recordation of the initial subdivision section, the amount of \$215,090 if paid prior to July 1, 2006, or \$215,090 adjusted upward by any increase in the Marshall and Swift Building Cost Index between July 1, 2005 and July 1 of the fiscal year in which the payment is made if paid after June 30, 2006. The payment shall be used for road improvements in accordance with the Board's cash proffer policy. (T)
17. Architectural Treatment. The architectural treatment of all dwelling units shall at a minimum have brick or stone veneer on the front and side facades of the main structure. (P)
18. Open Space. All required buffers and the required 200' sound setback, adjacent to the Route 288 right of way, shall be within recorded open space. In addition to these areas,

open space shall be recorded in the general location as shown on the attached Exhibit A.  
(P)

19. Prior to tentative subdivision approval, the developer shall submit certification to the Planning Department that all adjacent property owners, the last known representative of Rosemont Homeowners Association and the last known representative of the Midlothian Volunteer Coalition have been notified in writing of the submission of the tentative plan to the County for review and approval. The tentative subdivision application shall not be considered complete until such certification has been submitted to the Planning Department. The fifteen (15) day period for referral to the Planning Commission shall not commence until such certification has been provided. (P)

AYES: Messrs. Wilson, Gecker, Gulley and Litton.  
ABSENT: Mr. Bass.

**06SN0110:\*** In Midlothian Magisterial District, **JDC TRADD INC.** requested rezoning and amendment of zoning district map from Agricultural (A) to Residential Townhouse (R-TH) with Conditional Use Planned Development to allow exceptions to Ordinance requirements. Residential use of up to 8.0 units per acre is permitted in a Residential Townhouse (R-TH) District. The Comprehensive Plan suggests the property is appropriate for low density residential use of 1.01 to 2.5 units per acre. This request lies on 22.8 acres fronting approximately 1,200 feet on the north line of the Norfolk Southern Railroad, west of Winterfield Road. Tax IDs 724-710-7957 and 725-710-3079 and 4141 (Sheet 5).

Mr. Clay presented an overview of the request and staff's recommendation for denial of the request indicating that on February 20, 2006, the applicant submitted revisions to Proffered Conditions 10 and 11 which addressed the Transportation Department's concerns regarding right of way acquisition for construction of a cul-de-sac on Winterfield Road and credit for sidewalk construction other than the sidewalk through Winterfield Station Subdivision; however, staff continued to recommend denial of these requests because the proposed zoning and land use did not conform to the Midlothian Area Community Plan; failed to comply with the Thoroughfare Plan relative to the extension of Justice Road Extended; allowed for a reduction in the Transportation portion of the cash proffer for construction of sidewalks through adjacent property; and the standards by which an exception to street connectivity should be granted had not been met.

Mr. William Shewmake, the applicant's representative, did not accept staff's recommendation and stated he would forego a presentation unless the Commission desired one.

Mr. Wilson opened the discussion for public comment.

Mr. Eric Pater, a Midlothian District resident; Ms. Amy Satterfield, Executive Director of the Village of Midlothian Volunteer Coalition; and Mr. Peppy Jones, a Midlothian District resident; supported the rezoning and Conditional Use Planned Development but not the connection to Justice Road, indicating the extension of Justice Road with a bridge into an industrial park would adversely impact the character and perceived boundaries of the Village of Midlothian; stated the development was supported by the residents of Winterfield Station; and that the applicant had exceeded expectations in addressing the community's concerns; and the project would be beneficial to the Village of Midlothian residents.

There being no one else to speak, Mr. Wilson closed the public comment.

On motion of Mr. Gecker, seconded by Mr. Gulley, the Commission resolved to recommend approval of Case 06SN0110 and acceptance of the following proffered conditions:

PROFFERED CONDITIONS

1. Master Plan. The Textual Statement dated January 5, 2006, and the Plan prepared by Balzer and Associates dated December 22, 2005, shall be considered the Master Plan ("the Plan"). (P)
2. Density. The maximum density of this development shall not exceed one hundred thirty-four (134) dwelling units. The tentative subdivision plan shall show a minimum of seven (7) lots that conform to the requirements for Single Family A, as described herein. A maximum of one hundred twenty-two (122) lots conforming to the requirements for Single Family B lots shall be permitted. (P)
3. Foundations. All exposed portions of the foundation and exposed piers supporting front porches of each dwelling unit shall be faced with brick or stone veneer. (P)
4. Vinyl Siding. Vinyl siding shall be prohibited. (P)
5. Utilities. Public water and wastewater systems shall be used. (U)
6. Impacts on Capital Facilities. The applicant, subdivider, or assignee(s) shall pay the following to the County of Chesterfield, for infrastructure improvements within the service district for the property:
  - A. Prior to the issuance of a building permit for each dwelling unit, the applicant, subdivider, or assignee(s) shall pay to the County of Chesterfield the following amounts for infrastructure improvement within the service district for the property:
    - i. If payment is made prior to July 1, 2006, \$15,600.00 per dwelling unit. At time of payment \$15,600.00 will be allocated pro-rata among the facility costs as follows: \$602.00 for parks and recreation, \$348.00 for library facilities, \$8,915.00 for roads, and \$404.00 for fire stations, and \$5,331.00 for schools; or
    - ii. If payment is made after June 30, 2006, the amount approved by the Board of Supervisors not to exceed \$15,600.00 per dwelling unit pro-rated as set forth in Proffered Condition 6.a.i. above and adjusted upward by any increase in the Marshall and Swift Building Cost Index between July 1, 2005, and July 1 of the fiscal year in which the payment is made if paid after June 30, 2006.
    - iii. Cash proffer payments shall be spent for the purposes proffered or as otherwise permitted by law. (B&M)

7. Timbering. Except for timbering approved by the Virginia State Department of Forestry for the purpose of removing dead or diseased trees, there shall be no timbering on the Property until a land disturbance permit has been obtained from the Environmental Engineering Department and the approved devices installed. (EE)
8. Burning Ban. The developer shall not use burning to clear or timber the subject properties. (F)
9. Right of Way Dedication. In conjunction with the recordation of the initial subdivision plat or prior to any site plan approval, whichever occurs first, sufficient right of way for Winterfield Road shall be dedicated, free and unrestricted, to and for the benefit of Chesterfield County as determined by the Transportation Department. Provided, however, the total aggregate right of way width when combined with any dedicated right of way requested in Case No. 06SN0111 shall not exceed seventy (70) feet. (T)
10. Road Improvements. In conjunction with the initial development, the developer shall construct the following improvements. The exact location and design of these improvements shall be approved by the Transportation Department. The developer shall dedicate, free and unrestricted to Chesterfield County, any right-of-way (or easements) required for these improvements.
  - a. Winterfield Road Re-Aligned from the West Winterfield Road/Roderick Court intersection to the existing railroad crossing, as generally shown on the Plan,
  - b. A cul-de-sac on Winterfield Road at Winterfield Road Re-Aligned, if approved by VDOT and the Transportation Department. Unless otherwise approved by VDOT and the Transportation Department, the cul-de-sac shall be constructed on the property that is the subject of Case No. 06SN0111 and/or within the available right(s) of way,
  - c. Realignment of the existing West Winterfield Road/Winterfield Road intersection. In the event the developer is unable to acquire any right-of-way required for these improvements, the developer may request, in writing, that the County acquire such right(s)-of-way as a public road improvement. All costs associated with the acquisition of the right(s)-of-way shall be borne by the developer. In the event the County chooses not to assist the developer in acquisition of the right(s)-of-way, the developer shall be relieved of the obligation to acquire the right(s)-of-way and shall provide the improvement within available right(s)-of-way, as determined by the Transportation Department,
  - d. Sidewalks having a minimum width of five (5) feet along both sides of Winterfield Road Re-Aligned from the southern property line to the West Winterfield Road/Winterfield Road intersection,

- e. All roads that accommodate general traffic circulation through the development, as determined by the Transportation Department, shall be designed and constructed to VDOT standards and taken into the State System. (T)
11. Transportation Contribution. If the Applicant provides road improvements approved by the Transportation Department (the "Improvements"), other than those road improvements identified in Proffered Conditions 10a, b, c, and e, then the cash proffer payment(s) for the road component as set forth in Proffered Condition 6 shall be reduced so long as the cost to construct the Improvements is of equal or greater value than that which would have been collected through the payment(s) of the road component of the cash proffer. For purposes of this section, other road improvements not identified in Proffered Conditions 10a, b, c, and e, include without limitation, improvements of the railroad crossing to the south of the subject property. Once the sum total amount of the cash proffer credit exceeds the cost of the Improvements, as determined by the Transportation Department, thereafter the Applicant shall commence paying the cash proffer as set forth in Proffered Condition 6 as adjusted for the credit. For the purposes of this proffer, the costs, as approved by the Transportation Department, shall include, but not be limited to, the cost of right-of-way acquisition, engineering costs, costs of relocating utilities and actual costs of construction (including labor, materials, and overhead) ("Work"). Provided, however, the developer also shall receive a reduction of the transportation cash proffer payment(s) for the improvements identified in Proffered Condition 10(d) to the extent those improvements are north of the parcel identified as Tax Parcel No. 725-711-4912, but in no event shall the reduction for the improvements set forth in Proffered Condition 10(d) exceed \$150,000.00. Before any Work is performed (which includes the improvements identified in Proffered Condition 10(d)), the developer shall receive prior written approval by the Transportation Department for any credit amount. (T and B&M)
12. Park Dedication. If requested by the Parks and Recreation Department, the developer in conjunction with the final subdivision plat or site plan approval, whichever occurs first, shall dedicate to the County, free and unrestricted and to and for the benefit of Chesterfield County, approximately eight (8) acres generally adjacent to Michaux Creek located on the western portion of the property. Provided, however, the developer shall be granted on the dedicated property an easement for any storm water/BMP facilities required for the development under the County Code. If the County does not make such a request, then the developer shall provide a trail along the length of Michaux Creek and Deep Creek from the northeastern to southwestern parcel boundaries. The exact length, width and treatment of the trail shall be approved by the Parks and Recreation Department. Provided, however, the Parks and Recreation Department shall not require any trail to be hardscaped. The trail shall be dedicated to the County or an easement granted to the County, or shall be owned and maintained by the Homeowners Association. (P&R and B&M)
13. Restrictive Covenants. The following restrictive covenants shall be recorded in conjunction with the recordation of any subdivision plat or prior to any site plan approval, which ever occurs first:
- a. Design Guidelines - Any areas to be developed with a neotraditional design as defined in the Textual Statement shall be developed pursuant to and consistent



with the Residential Design Guidelines prepared by Looney Ricks Kiss, and referred to as the "Design Guidelines Manual."

- b. Architectural Board – The Architectural Board shall have exclusive jurisdiction over all original construction, modifications, additions or alterations made on or to all existing improvements, and the open space, if any, appurtenant thereto on all property. It shall prepare and, on behalf of the Board of Directors of the Homeowners Association (the "Board of Directors"), shall promulgate application and review procedures, all as part of the design and developmental standards. The Architectural Board shall incorporate the "Design Guidelines Manual," as described below in its review and approval of all applications submitted. Copies of the "Design Guidelines Manual" shall be available from the Architectural Board for review and use by owners, builders and/or developers. The guidelines and procedures shall be those of the Association, and the Architectural Board shall have sole and full authority to prepare and to amend the standards available to owners, builders, and developers only under extreme circumstances or hardships. Such circumstances or hardships shall be clearly demonstrated to be considered for amendment. The Architectural Board shall initially consist of three (3) members, all appointed by the Declarant. At such time as one hundred percent (100%) of all property has been developed, improved, and conveyed to purchasers in the normal course of development and sale, the Board of Directors shall appoint all members of the Architectural Board. At no time shall the Architectural Board have fewer than three members nor more than five (5) members. The declarant may, at his option, delegate to the Board of Directors its right to appoint one or more members of the Architectural Board. At all times, at least one (1) member of the Architectural Board shall be a member of the Board of Directors, and at least one (1) member shall be an architect licensed to practice in the State of Virginia. It is intended for the Architectural Board to maintain the character and integrity of the development.
- c. Signs – No signs shall be erected or maintained on any residential property by anyone including, but not limited to, the owner, a contractor, or a subcontractor, except as provided for in the "Development Guidelines Manual" or except as may be required by legal proceedings. Residential property identification and like signs not exceeding a combined total of more than one (1) square foot may be erected without the written permission of the Declarant or the Board of Directors. Realtor signs "For Sale" may be erected and are subject to review of the Declarant or Architectural Board.
- d. Condition of Ground -- It shall be the responsibility of each property owner and tenant to prevent the development of any unclean, unsightly, or unkempt conditions of buildings or grounds on his lot. All improvements on each lot shall be kept in good repair, and where necessary, painted in a regular basis. No portion of the property shall be used or maintained as a dumping ground for rubbish. Outdoor burning of leaves, trash, or other debris shall not be permitted. All trash, garbage, and other waste shall be kept in sanitary containers, which shall be

surrounded by a wood or vinyl screen with such screening to be approved by the Architectural Board, or otherwise out of sight from the street.

- e. Snow and Ice Removal – Each property owner shall be required to perform snow and ice removal from sidewalks that are on/or adjacent to their property.
- f. Residential Use – All lots shall be used for residential purposes exclusively. The use of a portion of a dwelling on a lot as an office by the owner or tenants thereof shall be considered a residential use if such use does not create customer or client traffic to and from the lot. No structure, except as herein after provided, shall be erected, altered, placed, or permitted to remain on any lot other than one (1) detached single family dwelling and one (1) accessory building which may include a detached private garage, provided the use of such accessory building does not overcrowd the side and provided further that such building is not used for any activity normally conducted as business. Such accessory building may not be constructed prior to the construction of the main building and approved by the Architectural Board.

The provisions of this paragraph shall not prohibit the Developer from using a house as a model as provided in this Declaration.

- g. Exterior Structure Completion – The exterior of all houses and other structures must be completed within one (1) year after the construction of same shall have commenced, except where such completion is impossible or would result in great hardship to the owner or builder due to the strikes, fires, national emergency, or natural calamities. Houses and other dwelling structures may not be temporarily or permanently occupied until the exteriors thereof have been completed. During the continuance of construction the owner of the lot shall require the contractor to maintain the lot in a reasonable clean and uncluttered condition.
- h. Screened Areas – Each builder shall provide a screened area to serve as a service yard and an area in which garbage receptacles, fuel tanks, similar storage receptacles, electric and gas meters, air conditioning equipment, clotheslines, and other unsightly objects must be placed or stored in order to conceal them from view from the road and adjacent properties. Plans for such screened area delineating the size, design, texture, appearance, and location must be in accordance with the "Design Guidelines Manual" and approved by the Architectural Board prior to construction. Garbage receptacles and fuel tanks may be located outside of such screened area only if located underground.
- i. Vehicle Storage – No mobile home, trailer, tent, barn, or other similar out-building or structure shall be placed on any lot at any time, either temporarily or permanently. Boats, boat trailers, campers, recreational vehicles, or utility trailers may be maintained on a lot, but only when in an enclosed or screened area approved by the Architectural Board such that they are not generally visible from adjacent properties.

- j. Temporary Structures – No structure of a temporary character shall be placed upon any lot at any time provided, however, that this prohibition shall not apply to shelter or temporary structures used by the contractor during the construction of the main dwelling house, it being clearly understood that these latter temporary shelters may not at any time be used as residences or permitted to remain on the lot after completion of construction. The design and color of structures temporarily placed on the lot by a contractor shall be subject to reasonable aesthetic control by the Architectural Board.
- k. Antennas – No television antenna, radio receiver or sender, or other similar device shall be attached to or installed on the exterior portion of any building or structure or any lot, except as permitted by applicable law and except that should cable television services be unavailable and good television reception not be otherwise available, a lot owner may make written application to the Board of Directors for permission to install a television antenna and such permission shall not be unreasonably withheld.
- l. Further Subdivision – No lot shall be subdivided or its boundary lines changed. However, the Declarant hereby expressly reserves to itself, its successors, or assigns the right to replat any lot or lots owned by it and shown on the plat of any subdivision in order to create a modified building lot or a replatted lot suitable and fit as a building site including, but not limited to, the recreational facilities, and other amenities to conform to the new boundaries of said replatted lots, provided that no lot originally shown on a recorded plat is reduced to a size smaller than the smallest lot shown on the first plat of the paragraph shall not prohibit the combining of two (2) or more continuous lots into one (1) larger lot, only the exterior boundary lines of the resulting larger lot shall be considered in the interpretation of these covenants.
- m. Animals – Only common household pet animals shall be permitted. All pet animals must be secured by a leash or lead, or be under the control of a responsible person and obedient to that person's command at any time they are permitted outside a residence or other enclosed area upon a lot approved by the Architectural Board for the maintenance and confinement of pet animals. No livestock including cattle, horses, sheep, goats, pigs, or poultry shall be permitted upon any residential lot. After giving a lot owner written notice of complaint and reasonable opportunity to remedy the situation, the Board of Directors may order the removal of any pet, which has been a nuisance or a danger.
- n. Motor Bikes All Terrain Vehicles – No motor bikes, motorcycles, or all terrain vehicles shall be driven upon the common area, lots, pathways, or roads (unless properly licensed on roads) with the exception of licensed vehicles and mopeds which shall be operated solely upon the public streets for direct ingress and egress purposes only.
- o. Swimming Pools – No swimming pool, whether in ground or above ground, whether permanent or temporary, shall be installed upon any lot without the prior

written consent of the Architectural Board. The Architectural Board shall require that all swimming pools be adequately screened.

- p. There shall be a minimum distance between dwellings of nine (9) feet.
- q. Rules and Regulations – The Board of Directors is granted and shall have the power to promulgate rules and regulations, from time to time, governing the use of and activity upon the Common Area and the Recreational Facilities (if the Recreational Facilities are owned or leased by the Association). All rules and regulations promulgated by the Board of Directors shall be published and distributed to each member of the Homeowners Association at least thirty (30) days prior to their effective date.
- r. Enforcement – The Board of Directors reserves the right to correct any situation, on any lot that violates the deed restrictions herein. The Board of Directors shall provide written notice to the owner in violation a minimum of thirty (30) days prior to any action to be taken by the Board of Directors. The Board of Directors shall have the right to correct the violation and collect reimbursement from the owner of the lot requiring action. If payment is not made or arranged for within thirty (30) days of the Board of Directors' request, the Board of Directors reserves the right to place a lien on said property or take any appropriate legal action necessary.

AYES: Messrs. Wilson, Gecker, Gulley and Litton.  
ABSENT: Mr. Bass.

On motion of Mr. Gecker, seconded by Mr. Gulley, the Commission resolved to recommend approval of a waiver to the Residential Subdivision Connectivity Policy for Case 06SN0110.

AYES: Messrs. Wilson, Gecker, Gulley and Litton.  
ABSENT: Mr. Bass.

**06SN0111:**\* In Midlothian Magisterial District, **JDC TRADD INC.** requested rezoning and amendment of zoning district map from Agricultural (A) to Residential Townhouse (R-TH) with Conditional Use Planned Development to permit exceptions to Ordinance requirements. Residential use of up to 8.0 units per acre is permitted in a Residential Townhouse (R-TH) District. The Comprehensive Plan suggests the property is appropriate for low density residential use of 1.01 to 2.5 units per acre. This request lies on 2.2 acres known as 1400 Winterfield Road. Tax ID 725-710-6268 (Sheet 5).

The Commission indicated a staff presentation of Case 06SN0111 was not necessary.

Mr. William Shewmake, the applicant's representative, did not accept staff's recommendation but agreed to modify the proffers to address the width of the proposed sidewalks in Winterfield Station.

Mr. Wilson opened the discussion for public comment.

Ms. Amy Satterfield, Executive Director of the Village of Midlothian Volunteer Coalition, supported the proposed development and asked that the County consider the acquisition of green space from the applicant.

There being no one else to speak, Mr. Wilson closed the public comment.

Mr. Gecker noted this was a good project that had received support from area property owners and the Village of Midlothian Volunteer Coalition and he felt a recommendation for approval was appropriate.

On motion of Mr. Gecker, seconded by Mr. Litton, the Commission resolved to recommend approval of Case 06SN0111 and acceptance of the following proffered conditions:

#### PROFFERED CONDITIONS

1. Master Plan. The Textual Statement dated January 5, 2006, and the Plan prepared by Balzer and Associates dated June 27, 2005, and revised October 18, 2005, shall be considered the Master Plan ("the Plan"). (P)
2. Density. The maximum density of this development shall not exceed fourteen (14) dwelling units. (P)
3. Foundations. All exposed portions of the foundation and exposed piers supporting front porches of each dwelling unit shall be faced with brick or stone veneer. (P)
4. Vinyl Siding. Vinyl siding shall be prohibited. (P)
5. Utilities. Public water and wastewater systems shall be used. (U)
6. Impacts on Capital Facilities. The applicant, subdivider, or assignee(s) shall pay the following to the County of Chesterfield, for infrastructure improvements within the service district for the property:
  - A. Prior to the issuance of a building permit for each dwelling unit, the applicant, subdivider, or assignee(s) shall pay to the County of Chesterfield the following amounts for infrastructure improvement within the service district for the property:
    - i. If payment is made prior to July 1, 2006, \$15,600.00 per dwelling unit. At time of payment \$15,600.00 will be allocated pro-rata among the facility costs as follows: \$602.00 for parks and recreation, \$348.00 for library facilities, \$8,915.00 for roads, and \$404.00 for fire stations, and \$5,331.00 for schools; or
    - ii. If payment is made after June 30, 2006, the amount approved by the Board of Supervisors not to exceed \$15,600.00 per dwelling unit pro-rated as set forth in Proffered Condition 6.a.i. above and adjusted upward by any increase in the Marshall and Swift Building Cost Index between July 1, 2005, and July 1 of the fiscal year in which the payment is made if paid after June 30, 2006.

- iii. Cash proffer payments shall be spent for the purposes proffered or as otherwise permitted by law.
- 7. Timbering. Except for timbering approved by the Virginia State Department of Forestry for the purpose of removing dead or diseased trees, there shall be no timbering on the Property until a land disturbance permit has been obtained from the Environmental Engineering Department and the approved devices installed. (EE)
- 8. Burning Ban. The developer shall not use burning to clear or timber the subject properties. (F)
- 9. Right of Way Dedication. In conjunction with the recordation of the initial subdivision plat or prior to any site plan approval, whichever occurs first, sufficient right of way for Winterfield Road shall be dedicated, free and unrestricted, to and for the benefit of Chesterfield County, as determined by the Transportation Department. Provided, however, the total aggregate right of way width when combined with any dedicated right of way required in Case No. 06SN0110 shall not exceed seventy (70) feet. (T)
- 10. Road Improvements. In conjunction with the initial development, the developer shall construct the following improvements. The exact location and design of these improvements shall be approved by the Transportation Department. The developer shall dedicate, free and unrestricted to Chesterfield County, any right-of-way (or easements) required for these improvements.
  - a. Winterfield Road Re-Aligned from the West Winterfield Road/Roderick Court intersection to the existing railroad crossing, as generally shown on the Plan,
  - b. A cul-de-sac on Winterfield Road at Winterfield Road Re-Aligned, if approved by VDOT and the Transportation Department. Unless otherwise approved by VDOT and the Transportation Department, the cul-de-sac shall be constructed on the subject property and/or within available right(s) of way,
  - c. Realignment of the existing West Winterfield Road/Winterfield Road intersection. In the event the developer is unable to acquire any right-of-way required for this improvement, the developer may request, in writing, that the County acquire such right(s)-of-way as a public road improvement. All costs associated with the acquisition of the right(s)-of-way shall be borne by the developer. In the event the County chooses not to assist the developer in acquisition of the right(s)-of-way, the developer shall be relieved of the obligation to acquire the right(s)-of-way and shall provide the improvement within available right(s)-of-way, as determined by the Transportation Department,
  - d. Sidewalks having a minimum width of five (5) feet along both sides of Winterfield Road Re-Aligned from the southern property line to the West Winterfield Road/Winterfield Road intersection,

- e. All roads that accommodate general traffic circulation through the development, as determined by the Transportation Department, shall be designed and constructed to VDOT standards and taken into the State System. (T)
11. Transportation Contribution. If the Applicant provides road improvements approved by the Transportation Department (the "Improvements"), other than those road improvements identified in Proffered Condition 10, then the cash proffer payment(s) for the road component as set forth in Proffered Condition 6 shall be reduced so long as the cost to construct the Improvements is of equal or greater value than that which would have been collected through the payment(s) of the road component of the cash proffer. For purposes of this section, other road improvements not identified in Proffered Condition 10, include without limitation, improvements of the railroad crossing to the south of the subject property. Once the sum total amount of the cash proffer credit exceeds the cost of the Improvements, as determined by the Transportation Department, thereafter the Applicant shall commence paying the cash proffer as set forth in Proffered Condition 6 as adjusted for the credit. For the purposes of this proffer, the costs, as approved by the Transportation Department, shall include, but not be limited to, the cost of right-of-way acquisition, engineering costs, costs of relocating utilities and actual costs of construction (including labor, materials, and overhead) ("Work"). Before any Work is performed, the Applicant shall receive prior written approval by the Transportation Department for any credit amount. (T)
12. Restrictive Covenants. The following restrictive covenants shall be recorded in conjunction with the recordation of any subdivision plat or prior to any site plan approval, which ever occurs first:
- a. Design Guidelines - Any areas to be developed with a neotraditional design as defined in the Textual Statement shall be developed pursuant to and consistent with the Residential Design Guidelines Manual prepared by Looney Ricks Kiss, and referred to as the "Design Guidelines Manual."
  - b. Architectural Board – The Architectural Board shall have exclusive jurisdiction over all original construction, modifications, additions or alterations made on or to all existing improvements, and the open space, if any, appurtenant thereto on all property. It shall prepare and, on behalf of the Board of Directors of the Homeowners Association (the "Board of Directors"), shall promulgate application and review procedures, all as part of the design and developmental standards. The Architectural Board shall incorporate the "Design Guidelines Manual", as described below in its review and approval of all applications submitted. Copies of the "Design Guidelines Manual" shall be available from the Architectural Board for review and use by owners, builders and/or developers. The guidelines and procedures shall be those of the Association, and the Architectural Board shall have sole and full authority to prepare and to amend the standards available to owners, builders, and developers only under extreme circumstances or hardships. Such circumstances or hardships shall be clearly demonstrated to be considered for amendment. The Architectural Board shall initially consist of three (3) members, all appointed by the Declarant. At such time as one hundred percent

(100%) of all property has been developed, improved, and conveyed to purchasers in the normal course of development and sale, the Board of Directors shall appoint all members of the Architectural Board. At no time shall the Architectural Board have fewer than three members nor more than five (5) members. The declarant may, at his option, delegate to the Board of Directors its right to appoint one or more members of the Architectural Board. At all times, at least one (1) member of the Architectural Board shall be a member of the Board of Directors, and at least one (1) member shall be an architect licensed to practice in the State of Virginia. It is intended for the Architectural Board to maintain the character and integrity of the development.

- c. Signs – No signs shall be erected or maintained on any residential property by anyone including, but not limited to, the owner, a contractor, or a subcontractor, except as provided for in the "Development Guidelines Manual" or except as may be required by legal proceedings. Residential property identification and like signs not exceeding a combined total of more than one (1) square foot may be erected without the written permission of the Declarant or the Board of Directors. Realtor signs "For Sale" may be erected and are subject to review of the Declarant or Architectural Board.
- d. Condition of Ground - It shall be the responsibility of each property owner and tenant to prevent the development of any unclean, unsightly, or unkempt conditions of buildings or grounds on his lot. All improvements on each lot shall be kept in good repair, and where necessary, painted in a regular basis. No portion of the property shall be used or maintained as a dumping ground for rubbish. Outdoor burning of leaves, trash, or other debris shall not be permitted. All trash, garbage, and other waste shall be kept in sanitary containers, which shall be surrounded by a wood or vinyl screen with such screening to be approved by the Architectural Board, or otherwise out of sight from the street.
- e. Snow and Ice Removal – Each property owner shall be required to perform snow and ice removal from sidewalks that are on/or adjacent to their property.
- f. Residential Use – All lots shall be used for residential purposes exclusively. The use of a portion of a dwelling on a lot as an office by the owner or tenants thereof shall be considered a residential use if such use does not create customer or client traffic to and from the lot. No structure, except as herein after provided, shall be erected, altered, placed, or permitted to remain on any lot other than one (1) detached single family dwelling and one (1) accessory building which may include a detached private garage, provided the use of such accessory building does not overcrowd the side and provided further that such building is not used for any activity normally conducted as business. Such accessory building may not be constructed prior to the construction of the main building and approved by the Architectural Board.

The provisions of this paragraph shall not prohibit the Developer from using a house as a model as provided in this Declaration.



- g. Exterior Structure Completion – The exterior of all houses and other structures must be completed within one (1) year after the construction of same shall have commenced, except where such completion is impossible or would result in great hardship to the owner or builder due to the strikes, fires, national emergency, or natural calamities. Houses and other dwelling structures may not be temporarily or permanently occupied until the exteriors thereof have been completed. During the continuance of construction the owner of the lot shall require the contractor to maintain the lot in a reasonable clean and uncluttered condition.
- h. Screened Areas – Each builder shall provide a screened area to serve as a service yard and an area in which garbage receptacles, fuel tanks, similar storage receptacles, electric and gas meters, air conditioning equipment, clotheslines, and other unsightly objects must be placed or stored in order to conceal them from view from the road and adjacent properties. Plans for such screened area delineating the size, design, texture, appearance, and location must be in accordance with the “Design Guidelines Manual” and approved by the Architectural Board prior to construction. Garbage receptacles and fuel tanks may be located outside of such screened area only if located underground.
- i. Vehicle Storage – No mobile home, trailer, tent, barn, or other similar out-building or structure shall be placed on any lot at any time, either temporarily or permanently. Boats, boat trailers, campers, recreational vehicles, or utility trailers may be maintained on a lot, but only when in an enclosed or screened area approved by the Architectural Board such that they are not generally visible from adjacent properties.
- j. Temporary Structures – No structure of a temporary character shall be placed upon any lot at any time provided, however, that this prohibition shall not apply to shelter or temporary structures used by the contractor during the construction of the main dwelling house, it being clearly understood that these latter temporary shelters may not at any time be used as residences or permitted to remain on the lot after completion of construction. The design and color of structures temporarily placed on the lot by a contractor shall be subject to reasonable aesthetic control by the Architectural Board.
- k. Antennas – No television antenna, radio receiver or sender, or other similar device shall be attached to or installed on the exterior portion of any building or structure or any lot, except as permitted by applicable law and except that should cable television services be unavailable and good television reception not be otherwise available, a lot owner may make written application to the Board of Directors for permission to install a television antenna and such permission shall not be unreasonably withheld.
- l. Further Subdivision – No lot shall be subdivided or its boundary lines changed. However, the Declarant hereby expressly reserves to itself, its successors, or assigns the right to replat any lot or lots owned by it and shown on the plat of any

subdivision in order to create a modified building lot or a replatted lot suitable and fit as a building site including, but not limited to, the recreational facilities, and other amenities to conform to the new boundaries of said replatted lots, provided that no lot originally shown on a recorded plat is reduced to a size smaller than the smallest lot shown on the first plat of the paragraph shall not prohibit the combining of two (2) or more continuous lots into one (1) larger lot, only the exterior boundary lines of the resulting larger lot shall be considered in the interpretation of these covenants.

- m. Animals – Only common household pet animals shall be permitted. All pet animals must be secured by a leash or lead, or be under the control of a responsible person and obedient to that person's command at any time they are permitted outside a residence or other enclosed area upon a lot approved by the Architectural Board for the maintenance and confinement of pet animals. No livestock including cattle, horses, sheep, goats, pigs, or poultry shall be permitted upon any residential lot. After giving a lot owner written notice of complaint and reasonable opportunity to remedy the situation, the Board of Directors may order the removal of any pet, which has been a nuisance or a danger.
- n. Motor Bikes All Terrain Vehicles – No motor bikes, motorcycles, or all terrain vehicles shall be driven upon the common area, lots, pathways, or roads (unless properly licensed on roads) with the exception of licensed vehicles and mopeds which shall be operated solely upon the public streets for direct ingress and egress purposes only.
- o. Swimming Pools – No swimming pool, whether in ground or above ground, whether permanent or temporary, shall be installed upon any lot without the prior written consent of the Architectural Board. The Architectural Board shall require that all swimming pools be adequately screened.
- p. Rules and Regulations – The Board of Directors is granted and shall have the power to promulgate rules and regulations, from time to time, governing the use of and activity upon the Common Area and the Recreational Facilities (if the Recreational Facilities are owned or leased by the Association). All rules and regulations promulgated by the Board of Directors shall be published and distributed to each member of the Homeowners Association at least thirty (30) days prior to their effective date.
- q. Enforcement – The Board of Directors reserves the right to correct any situation, on any lot that violates the deed restrictions herein. The Board of Directors shall provide written notice to the owner in violation a minimum of thirty (30) days prior to any action to be taken by the Board of Directors. The Board of Directors shall have the right to correct the violation and collect reimbursement from the owner of the lot requiring action. If payment is not made or arranged for within thirty (30) days of the Board of Directors' request, the Board of Directors reserves the right to place a lien on said property or take any appropriate legal action necessary. (P)

- r. Enforcement – The Board of Directors reserves the right to correct any situation, on any lot that violates the deed restrictions herein. The Board of Directors shall provide written notice to the owner in violation a minimum of thirty (30) days prior to any action to be taken by the Board of Directors. The Board of Directors shall have the right to correct the violation and collect reimbursement from the owner of the lot requiring action. If payment is not made or arranged for within thirty (30) days of the Board of Directors' request, the Board of Directors reserves the right to place a lien on said property or take any appropriate legal action necessary.

13. Open Space. Unless otherwise approved by the Planning Department, .45 acre of open space adjacent to and along the western side of Winterfield Road generally across from the development shall be provided as a focal point for the development. Part of the focal point area shall be "hardscaped" and have benches and other amenities that accommodate and facilitate gatherings. The focal point shall be developed concurrent with the development of the subject property. (P)

AYES: Messrs. Wilson, Gecker, Gulley and Litton.

ABSENT: Mr. Bass.

**G. CITIZENS' INPUT ON UNSCHEDULED MATTERS.**

No one came forward to speak on unscheduled matters at this time.

**H. ADJOURNMENT.**

There being no further business to come before the Commission, it was on motion of Mr. Gecker, seconded by Mr. Litton, that the meeting adjourned at approximately 2:05 a. m. on Wednesday, February 22, 2006, to March 21, 2006, at 12:00 Noon in Room 502 of the Administration Building at the Chesterfield County Government Complex.

AYES: Messrs. Wilson, Gecker, Gulley and Litton.

ABSENT: Mr. Bass.

---

Chairman/Date

---

Secretary/Date